

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
MONDAY, MARCH 19, 2012**

MEMBERS PRESENT AT BRIEFING: Sharon Boyd, Vice-Chair, Robert Moore, Panel Vice-Chair, Joel Maten, regular member and Bob Richard, regular member

MEMBERS ABSENT FROM BRIEFING: Ross Coulter, regular member

MEMBERS PRESENT AT HEARING: Sharon Boyd, Vice-Chair, Robert Moore, Panel Vice-Chair, Joel Maten, regular member and Bob Richard, regular member

MEMBERS ABSENT FROM HEARING: Ross Coulter, regular member

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

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

11:32 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **March 19, 2012** docket.

1:07 P.M.

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C February 13, 2012 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

MOTION: Richard

I move **approval** of the Monday, **February 13, 2012** public hearing minutes.

SECONDED: Maten

AYES: 4–Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 101-130

BUILDING OFFICIAL’S REPORT:

Application of Nathan Watkins, represented by Zach Spillers, for variances to the front yard setback regulations, a variance to the off-street parking regulations, and a special exception to the single family use development standard regulations at 7006 Shook Avenue. This property is more fully described as Lot 2 in City Block F/2812 and is zoned R-7.5(A), which requires a front yard setback of 25 feet, 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, and limits the number of dwelling units to one. The applicant proposes to construct and maintain a structure and provide a 2 foot 6 inch front yard setback, which will require a variance of 22 foot 6 inches; to construct and maintain a structure and provide enclosed parking spaces with a setback of 2 feet 6 inches, which will require a variance of 17 feet 6 inches; and to construct and maintain an additional dwelling unit, which will require a special exception to the single family use development standard regulations.

LOCATION: 7006 Shook Avenue.

APPLICANT: Nathan Watkins
Represented by Zach Spillers

March 19, 2012 Public Hearing Notes:

- The applicant and opposing property owners/neighbors submitted written documentation to the Board at the public hearing.

REQUESTS:

- The following appeals have been made in this application on a site that is currently developed with a one-story single family home structure with a one-story detached garage accessory structure:
 1. a variance to the front yard setback regulations of approximately 19' 6" is requested in conjunction with constructing and maintaining a second floor addition to align with the existing nonconforming one-story main structure/single family home on the site, part of which is located in one of the site's two 25' front yard setbacks (White Rock Road);
 2. a variance to the front yard setback regulations of 22' 5" is requested in conjunction with replacing a one-story detached accessory/garage structure with a detached two-story garage/accessory structure, most of which would be located in one the site's two 25' front yard setbacks (White Rock Road),
 3. a variance to the off-street parking regulations of up to 17' 6" is requested in conjunction with enclosing parking spaces with garage doors in the proposed detached two-story two-vehicle garage/accessory structure where the parking spaces that are to be enclosed with garage doors in the proposed detached structure would be located less than the required 20' distance from right-of-way line on White Rock Road.

Note that a special exception to the single family use development standard regulations had been made with the original application in conjunction with constructing and maintaining a proposed detached two-story two-vehicle garage/*dwelling unit* structure on the site. However, the applicant's representative submitted revised documents to staff on March 1, 2012 (see Attachment C) that included, among other things, an amended 2nd story floor plan of the proposed detached accessory structure that merely included bedroom, living room, and bath spaces. The Building Official reviewed the submitted amended floor plan of March 1st and concluded it was no longer a "dwelling unit." As a result, the applicant has requested that the Board deny this special exception request without prejudice since it is no longer necessary given his amended submitted floor plan.

STANDARD FOR A VARIANCE:

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

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

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

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

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

STAFF RECOMMENDATION (front yard variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) in that it is an irregular-shaped corner lot with a restrictive area due to two front yard setbacks that according to the applicant has only approximately 2,500 square feet of buildable square footage when the average of 30 other homes in the area zoned R-7.5 is over 8,000 square feet of buildable area. The atypical irregular-shaped lot with two front yard setbacks precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property with according to the applicant's representative's information, a site with a total living area of 3,542 square feet where the average of 30 other homes in the area zoned R-7.5 built/renovated since 2000 is approximately 4,500 square feet.
- The virtually triangular-shaped site has a triangular-shaped area of developable space ranging from 0' – 55' in width on the lot that ranges in 4' – 98' in width.

STAFF RECOMMENDATION (parking variance):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. Automatic garage doors must be installed and maintained in working order at all times.
3. At no time may the area in front of the garage doors be used for parking of vehicles.
4. All applicable permits must be obtained.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) in that it is an irregular-shaped corner lot with a restrictive area due to two front yard setbacks. The atypical irregular-shaped lot with two front yard setbacks precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property with according to the applicant's representative's information, a site with a total living area of 3,542 square feet and an approximately 540 square foot detached two-vehicle garage.
- Granting the request for variance in this case does not appear to be contrary to public interest seeing that the closest distance between the garage doors and the White Rock Road pavement line is 25', and that the Sustainable Development and Construction Department Project Engineer has no objections to this request.

STAFF RECOMMENDATION (single family special exception):

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

GENERAL FACTS (variances):

- The Board of Adjustment conducted a public hearing on this application on December 12, 2011. Citizens opposing the application submitted written documentation to the Board at the public hearing (see Attachment B). The Board delayed action on this application until March 19, 2012.
- On March 1, 2012, the applicant's representative submitted additional documentation regarding this application to staff (see Attachment C). This information included the following: 1) a revised floor plan of the proposed accessory structure on the site, 2) an explanation that no other changes other than the revised floor plan of the accessory structure have been made to the application; and 3) documents "to answer some of the concerns the neighbors have about the height and size of the project."
- On March 9, 2012, the applicant's representative submitted "illustrations" that included averaging of buildable areas as a percentage of total lot size (see Attachment D).
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The subject site is located at the southwest corner of Shook Avenue and White Rock Road. Regardless of how the existing structure on the site is oriented or addressed (in this case, northward to Shook Avenue), the subject site has two 25' front yards along both streets. The site has a 25' front yard setback along Shook Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district, and a 25' front yard setback along White Rock Road, the longer of the two frontages of this corner lot which would typically be

regarded as a side yard where only a 5' setback would be required. But the site's White Rock Road frontage is deemed a front yard nonetheless given the code provision stating that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.

A site plan has been submitted denoting a portion of the existing main single family home structure that is located 5.3' from the White Rock Road front property line (or 19.7' into the 25' front yard setback). While the existing main one story single family home structure (constructed in 1950, according to DCAD) is a nonconforming structure (a structure that does not conform to the current front yard setback regulations but was lawfully constructed under the regulations in force at the time of construction), floor plans and elevations have been submitted showing a second floor addition proposed atop this structure.

The Dallas Development Code states that a person may renovate, remodel, repair, or rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations. The applicant seeks variance to the front yard setback regulations given this code provision since he proposes to cause the structure to become more nonconforming with regard to the site's 25' White Rock Road front yard setback – not by encroaching closer to the property line than what exists but by increasing the height of the structure in this setback.

A site plan has been submitted denoting a portion of the proposed “new detached garage” structure located 2' 6” from the White Rock Road front property line (or 22' 6” into the 25' front yard setback).

A site plan has been submitted denoting the location of enclosed parking spaces in the proposed “new detached garage” structure on the site as close as 2.5' from the White Rock Road right of way line/property line on the east side of the site. This site plan denotes that the distance between one of the garage doors of the structure and the White Rock Road pavement line to be 18' - 25' and the distance between the other one of the garage doors and the White Rock Road pavement line to be 22' – 46'.

- According to DCAD records, the “main improvement” at 7006 Shook is a structure built in 1950 with 1,474 square feet of living area; with “additional improvements” being a detached garage with 462 square feet.
- The subject site is flat, virtually triangular in shape and according to the application, is 0.185 acres (or approximately 8,000 square feet) in area. The site is zoned R-7.5(A) where lots in this zoning district are typically 7,500 square feet in area. This site has two 25' front yard setback; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The applicant's representative forwarded additional information beyond what was submitted with the original application prior to the December 12th public hearing (see Attachment A).

GENERAL FACTS (single family use special exception):

- The Board of Adjustment conducted a public hearing on this application on December 12, 2011. Citizens opposing the application submitted written documentation to the board at the public hearing (see Attachment B). The Board delayed action on this application until March 19, 2012.
- On March 1, 2012, the applicant's representative submitted additional documentation regarding this application to staff (see Attachment C). This information included among other things the following: 1) a revised floor plan of the proposed accessory structure on the site, 2) an explanation that no other changes other than the revised floor plan of the accessory structure have been made to the application; and 3) documents "to answer some of the concerns the neighbors have about the height and size of the project."
- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties. The Dallas Development Code defines "single family" use as "one dwelling unit located on a lot;" and a "dwelling unit" as "one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms."
A site plan has been submitted denoting the location of the two building footprints. An elevation document has been submitted showing the heights of the two structures on the site with the detached accessory structure being lower in height than that of the main structure. Floor plans were submitted with the original applications of both structures on the site. The originally submitted plans indicated that the first floor of the detached accessory structure included "garage" and the second floor included "bedroom," "bath," and "living room/kitchen." Building Inspection staff had reviewed the originally submitted floor plans and deemed it a "dwelling unit."
- The applicant's representative submitted revised documents to staff on March 1, 2012 (see Attachment C) that included among other things an amended accessory structure floor plan that merely included bedroom, living room, and bath spaces. The Building Official reviewed the submitted amended floor plan of March 1st and concluded it was no longer a "dwelling unit." As a result, the applicant has requested that the Board deny this special exception request without prejudice since it is no longer necessary given his amended submitted floor plan.
- According to DCAD records, the "main improvement" at 7006 Shook is a structure built in 1950 with 1,474 square feet of living area; with "additional improvements" being a detached garage with 462 square feet.
- The applicant's representative forwarded additional information beyond what was submitted with the original application prior to the December 12th public hearing (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- October 26, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- November 9, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- November 11, 2011: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the November 23rd deadline to submit additional evidence for staff to factor into their analysis; and the December 2nd deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- November 15, 2011: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- November 30, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing.

December 2, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

December 12, 2011: The Board of Adjustment conducted a briefing/hearing on this application. Citizens opposing the application submitted written documentation to the board at the public hearing (see Attachment B). The Board delayed action on this application until March 19, 2012.

December 21, 2011: The Board Administrator wrote the applicant’s representative a letter that conveyed the following information:

- that the Board delayed action on the application until March 19, 2012, the March 1st deadline to submit additional evidence for staff to factor into their analysis; and the March 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials.

March 1, 2012: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application and what was submitted at the December 12th public hearing (see Attachment C).

March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

March 8, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

March 9, 2012: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application, at the December 12th public hearing, and at the March 6th staff review team meeting (see Attachment D).

STAFF ANALYSIS (front yard variances):

- These requests focus on constructing and maintaining a second floor addition to align with the existing nonconforming one-story main structure/single family home,

and replacing a one-story detached accessory/garage structure with a detached two-story garage/accessory structure some and/or most of which would be located in one of the site's two 25' front yard setbacks (White Rock Road) on a site developed with a one-story single family home structure with a one-story detached garage accessory structure that the applicant intends to demolish.

- The site has a 25' front yard setback along Shook Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district, and a 25' front yard setback along White Rock Road, the longer of the two frontages of this corner lot which would typically be regarded as a side yard where only a 5' setback would be required. But the site's White Rock Road frontage is deemed a front yard nonetheless given the code provision stating that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- A site plan has been submitted denoting the location of the existing main structure at 5.3' from the White Rock Road front property line (or 19.7' into the 25' front yard setback). The applicant seeks variance to the front yard setback regulations for the main nonconforming single family home structure not by encroaching closer to the property line than what exists but by increasing the height of this structure in White Rock Road setback.
- A site plan has been submitted denoting the location of the proposed "new detached garage"/accessory structure at 2' 6" from the White Rock Road front property line (or 22' 6" into the 25' front yard setback).
- It appears from the submitted site plan that approximately 1/5 of the existing nonconforming structure is located in the site's White Rock Road 25' front yard setback; and that virtually all of the proposed detached two-story two-vehicle garage/accessory structure is located in this setback.
- The subject site is flat, virtually triangular in shape and according to the application, is 0.185 acres (or approximately 8,000 square feet) in area. The site is zoned R-7.5(A) where lots in this zoning district are typically 7,500 square feet in area. This site has two 25' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The virtually triangular-shaped site has a triangular-shaped area of developable space ranging from 0' – 50' in width on the lot that ranges in 4' – 98' in width.
- The main structure requiring variance to the front yard setback regulations would be allowed by right if the White Rock Road frontage of the property was a side yard setback since the main structure is shown to be 5.3' from the White Rock Road property line.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the White Rock Road 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 R-7.5(A) zoning classification.

- The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structures in the front 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 2’ 6” from the White Rock Road front property line (or as much as 22’ 6” into this 25’ front yard setback).

STAFF ANALYSIS (parking variance):

- This request focuses on enclosing parking spaces with garage doors in the proposed detached two-story two-vehicle garage/accessory structure where the parking spaces that are to be enclosed with garage doors in the proposed detached structure would be located less than the required 20’ distance from right-of-way line on White Rock Road.
- The submitted site plan denotes the location of enclosed parking spaces in the proposed detached two-story two-vehicle garage/accessory structure on the site as close as 2.5’ from the White Rock Road right of way line/property line on the east side of the site. This site plan denotes that the closest distance between the garage doors and that White Rock Road pavement line to be 25’.
- The subject site is flat, virtually triangular in shape and according to the application, is 0.185 acres (or approximately 8,000 square feet) in area. The site is zoned R-7.5(A) where lots in this zoning district are typically 7,500 square feet in area. This site has two 25’ front yard setback; and two 5’ side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The virtually triangular-shaped site has a triangular-shaped area of developable space ranging from 0’ – 50’ in width on the lot that ranges in 4’ – 98’ in width.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the parking regulations of 17’ 6” 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 to the parking regulations of 17’ 6” is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.

- The variance to the parking regulations of 17' 6" requested would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- Typically, when the Board has found that this type of variance request is warranted, they have imposed the following conditions:
 1. Compliance with the submitted site plan is required.
 2. Automatic garage doors must be installed and maintained in working order at all times.
 3. At no time may the areas in front of the garage be utilized for parking of vehicles.
 4. All applicable permits must be obtained.
 (These conditions are imposed to help assure that the variance will not be contrary to public interest).

If the Board were to grant the variance request of 17' 6", imposing a condition whereby the applicant must comply with the submitted site plan, the parking spaces in the proposed accessory structure could be enclosed with garage doors that would be 2' 6" away from the White Rock Road right of way line (or 17' 6" into the 20' setback/distance requirement) where the distance between one of the garage doors of the structure and the White Rock Road pavement line would be 18' - 25' and the distance between the other one of the garage doors and the White Rock Road pavement line would be 22' - 46'.

STAFF ANALYSIS (single family use special exception):

- The applicant had originally made this request to construct and maintain a detached two-story two-vehicle garage/dwelling unit structure on a site currently developed with a one-story dwelling unit/single family home structure. However on March 1, 2012, the applicant's representative submitted additional documentation regarding this application to staff (see Attachment C). This information included among other things a revised floor plan of the proposed accessory structure.
- The applicant's submitted amended 2nd story floor plan of the detached accessory structure merely includes bedroom, living room, and bath spaces. The Building Official has reviewed the submitted amended floor plan of March 1st and has concluded it is no longer a "dwelling unit." As a result, the applicant has requested that the Board deny this special exception request without prejudice since it is no longer necessary given his amended submitted floor plan.

BOARD OF ADJUSTMENT ACTION: DECEMBER 12, 2011

APPEARING IN FAVOR: Nathan Watkins, 6914 Vivia Ave., Dallas, TX

APPEARING IN OPPOSITION: Albert Marshall, 7011 Shook Ave, Dallas, TX
 Holly Middlemis, 7007 Shook, Ave., Dallas, TX
 Deborah Campdeva, 7001 Wildgrove Ave., Dallas, TX
 Joe Guffey, 7000 Shook Ave, Dallas, TX
 Michael Fahey, 6941 Gaston Ave., Dallas, TX
 Melinda Fagin, 7138 Wildgrove, Dallas, TX

Markus Schwartz, 7001 Wildgrove Ave., Dallas, TX

MOTION #1: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 101-130**, on application of Nathan Watkins, represented by Zach Spillers, **grant** the 17-foot-six-inch variance to the front yard setback regulations, because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.
- This is limited to the main house only.

SECONDED: Maten

AYES: 3–Maten, Coulter, Richard

NAYS: 2 – Boyd, Moore,

MOTION FAILED: 3-2

MOTION #2: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 101-130**, hold this matter under advisement until **March 19, 2012**.

SECONDED: Maten

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

APPEARING IN FAVOR: Nathan Watkins, 6914 Vivia Ave., Dallas, TX

APPEARING IN OPPOSITION: Deborah Campdeva, 7001 Wildgrove Ave., Dallas, TX
Holly Middlemis, 7007 Shook, Ave., Dallas, TX
Albert Marshall, 7011 Shook Ave, Dallas, TX
Melinda Fagin, 7138 Wildgrove, Dallas, TX
Brix Casserly, 7019 Wildgrove, Dallas, TX
Joe Guffey, 7000 Shook Ave, Dallas, TX

MOTION #1: Maten

I move that the Board of Adjustment, in Appeal No. **BDA 101-130**, on application of Nathan Watkins, represented by Zach Spillers, **grant** a 19-foot 6-inch variance to the minimum front yard setback regulations to construct and maintain a second floor

addition to the main structure. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Richard**
AYES: 2–Maten, Richard
NAYS: 2 – Boyd, Moore,
MOTION FAILED: 2-2

MOTION #2: **Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 101-130**, on application of Nathan Watkins, represented by Zach Spillers, **deny** a 19-foot 6-inch variance to the minimum front yard setback regulations to construct and maintain a second floor addition to the main structure and a 22-foot 5-inch variance to the minimum front yard setback regulations to construct and maintain a garage/accessory structure **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Moore**
AYES: 4– Boyd, Moore, Maten, Richard
NAYS: 0 –
MOTION PASSED: 4-0 (unanimously)

MOTION #3: **Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 101-130**, on application of Nathan Watkins, represented by Zach Spillers, **deny** a variance of up to 17 feet, 6 inches to the off-street parking regulations to construct/maintain an enclosed parking space that is less than 20 feet from the right-of-way line on White Rock Road **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

SECONDED: **Moore**
AYES: 4– Boyd, Moore, Maten, Richard
NAYS: 0 –
MOTION PASSED: 4-0 (unanimously)

MOTION #3: **Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 101-130** on application of Nathan Watkins, represented by Zach Spillers, **deny** the special exception to maintain

an additional dwelling unit on the property **without prejudice**, because the applicant is no long requesting a special exception for an additional dwelling unit.

SECONDED: **Moore**

AYES: 4– Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4-0 (unanimously)

Break: 2:26 P.M.

Resumed: 2:31 P.M.

FILE NUMBER: BDA 112-025

BUILDING OFFICIAL'S REPORT:

Application of Rob Baldwin for a variance to the side yard setback regulations at 3229 Throckmorton Street. This property is more fully described as Lot 18D in City Block A/1324 and is zoned PD-193 (MF-2), which requires side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 0 foot side yard setback, which will require a variance of 10 feet.

LOCATION: 3229 Throckmorton Street

APPLICANT: Rob Baldwin

REQUEST:

- A variance to the side yard setback regulations of 10' is requested in conjunction with constructing and maintaining an attached single family with an approximately 900 square foot building footprint, part of which would be located in the site's 10' side yard setback on southwest side of site that is currently undeveloped. (Note that this application abuts three other properties where the same applicant seeks similar side yard variance requests of the Board of Adjustment Panel C: BDA 112-026, 027, and 028).

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how the restrictive area, shape, or slope of the site/lot precludes it from being developed in a manner commensurate with development found on other PD. No. 193 (MF-2) zoned lots or how granting the variance was not to relieve a self-created hardship.

STANDARD FOR A VARIANCE:

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

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

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

GENERAL FACTS:

- PD No. 193 states that minimum side yard setback for multiple-family structures 36' in height or less on lots zoned MF-2 Subdistrict is 10 feet.
The applicant had submitted a site plan indicating a structure that provides a 0' setback from the side property line on the southwest side of the subject site or is 10' into the required 10' side yard setback.
- The site is flat, rectangular in shape (65' x 50'), and according to the application, 3,250 square feet in area. The site is zoned PD No. 193 (MF-2). The site has two front yard setbacks which is typical of any lot that has two street frontages and is not zoned single family, duplex, or agricultural.
- DCAD records indicate that the "no improvements" at 4001 Hall Street.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) Planned Development, Multifamily)
North: PD No. 193 (MF-2) Planned Development, Multifamily)
South: PD No. 193 (MF-2) Planned Development, Multifamily)
East: PD No. 193 (MF-2) Planned Development, Multifamily)
West: PD No. 193 (MF-2) Planned Development, Multifamily)

Land Use:

The subject site is undeveloped. The areas to the north, east, and south appear to be developed as residential uses; and the area immediately west is undeveloped and the subject sites of BDA 112-026, 027, and 028.

Zoning/BDA History:

1. BDA 112-026, Property at 3233 Throckmorton Street (the lot immediately southwest of the subject site)

On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is

currently undeveloped.

2. BDA 112-027, Property at 3237 Throckmorton Street (two lots immediately southwest of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is currently undeveloped.
3. BDA 112-028, Property at 3241 Throckmorton Street (three lots immediately southwest of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setback on the northeast side of the property that is currently undeveloped.

Timeline:

- December 21, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 8, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- February 8, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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.
- February 29, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public

hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

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

STAFF ANALYSIS:

- The request focuses on constructing and maintaining an attached single family with an approximately 900 square foot building footprint, part of which would be located in the site's 10' side yard setbacks on southwest side of site that is currently undeveloped.
- According to calculations taken from the submitted site plan by the Board Administrator, approximately 200 square feet (or 1/5) of the approximately 900 square foot building footprint is located in the required 10' side yard setback on the southwest side of the subject site.
- The site is flat, rectangular in shape (65' x 50'), and according to the application, 3,250 square feet in area. The site is zoned PD No. 193 (MF-2). The site has two front yard setbacks which is typical of any lot that has two street frontages and is not zoned single family, duplex, or agricultural.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (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 No. 193 (MF-2) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure encroaching into the required side yard setback would be required to be maintained in the location and to the features shown on this document.

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

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

APPEARING IN OPPOSITION: No one

MOTION: Moore

I move that the Board of Adjustment, in Appeal No. **BDA 112-025**, on application of Rob Baldwin, **grant** a 10-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: Maten

AYES: 4– Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4-0(unanimously)

FILE NUMBER: BDA 112-026

BUILDING OFFICIAL’S REPORT:

Application of Rob Baldwin for variances to the side yard setback regulation at 3233 Throckmorton Street. This property is more fully described as Lot 18C in City Block A/1324 and is zoned PD-193 (MF-2), which requires side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide 0 foot side yard setbacks, which will require variances of 10 feet.

LOCATION: 3233 Throckmorton Street

APPLICANT: Rob Baldwin

REQUESTS:

- Variances to the side yard setback regulations of 10’ are requested in conjunction with constructing and maintaining an attached single family with an approximately 1,000 square foot building footprint, part of which would be located in the site’s 10’ side yard setbacks on southwest and northeast sides of site that is currently undeveloped. (Note that this application is located between three other properties where the same applicant seeks similar side yard variance requests of the Board of Adjustment Panel C: BDA 112-025, 027, and 028).

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how the restrictive area, shape, or slope of the site/lot precludes it from being developed in a manner commensurate with development found on other PD. No. 193 (MF-2) zoned lots or how granting the variance was not to relieve a self-created hardship.

STANDARD FOR A VARIANCE:

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

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

GENERAL FACTS:

- PD No. 193 states that minimum side yard setback for multiple-family structures 36' in height or less on lots zoned MF-2 Subdistrict is 10 feet.
The applicant had submitted a site plan indicating a structure that provides a 0' setback from the side property lines on the southwest and northeast sides of the subject site or is 10' into the required 10' side yard setbacks.
- The site is flat, rectangular in shape (40' x 50'), and according to the application, 2,000 square feet in area. The site is zoned PD No. 193 (MF-2).
- DCAD records indicate "no records found" for property at 3233 Throckmorton.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) Planned Development, Multifamily)
North: PD No. 193 (MF-2) Planned Development, Multifamily)
South: PD No. 193 (MF-2) Planned Development, Multifamily)
East: PD No. 193 (MF-2) Planned Development, Multifamily)
West: PD No. 193 (MF-2) Planned Development, Multifamily)

Land Use:

The subject site is undeveloped. The areas to the north and south appear to be developed as residential uses; and the areas immediately east and west are undeveloped and the subject sites of BDA 112-025, 027, and 028.

Zoning/BDA History:

1. BDA 112-025, Property at 4001 Hall Street (two lots northeast of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in a required side yard setback on property that is currently undeveloped.

2. BDA 112-026, Property at 3233 Throckmorton Street (the lot immediately northeast of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is currently undeveloped.

3. BDA 112-028, Property at 3241 Throckmorton Street (the lot immediately southwest of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setback on the northeast side of the property that is currently undeveloped.

Timeline:

December 21, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 8, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

February 8, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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.

February 29, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

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

STAFF ANALYSIS:

- The requests focus on constructing and maintaining an attached single family with an approximately 1,000 square foot building footprint, part of which would be located in the site’s 10’ side yard setbacks on southwest and northeast sides of site that is currently undeveloped.
- According to calculations taken from the submitted site plan by the Board Administrator, two areas of approximately 250 square feet each (or a combined total of 1/2) of the approximately 1,000 square foot building footprint are located in the required 10’ side yard setbacks on the southwest and northeast sides of the subject site.

- The site is flat, rectangular in shape (40' x 50'), and according to the application, 2,000 square feet in area. The site is zoned PD No. 193 (MF-2).
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The 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 No. 193 (MF-2) 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 No. 193 (MF-2) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure encroaching into the required side yard setbacks would be required to be maintained in the location and to the features shown on this document.

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

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

APPEARING IN OPPOSITION: No one

MOTION: **Moore**

I move that the Board of Adjustment, in Appeal No. **BDA 112-026**, on application of Rob Baldwin, **grant** a 10-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Maten**

AYES: 4– Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4-0(unanimously)

FILE NUMBER: BDA 112-027

BUILDING OFFICIAL'S REPORT:

Application of Rob Baldwin for variances to the side yard setback regulation at 3237 Throckmorton Street. This property is more fully described as Lot 18B in City Block A/1324 and is zoned PD-193 (MF-2), which requires side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide 0 foot side yard setbacks, which will require variances of 10 feet.

LOCATION: 3237 Throckmorton Street

APPLICANT: Rob Baldwin

REQUESTS:

- Variances to the side yard setback regulations of 10' are requested in conjunction with constructing and maintaining an attached single family with an approximately 1,000 square foot building footprint, part of which would be located in the site's 10' side yard setbacks on southwest and northeast sides of site that is currently undeveloped. (Note that this application is located between three other properties where the same applicant seeks similar side yard variance requests of the Board of Adjustment Panel C: BDA 112-025, 026, and 028).

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how the restrictive area, shape, or slope of the site/lot precludes it from being developed in a manner commensurate with development found on other PD. No. 193 (MF-2) zoned lots or how granting the variance was not to relieve a self-created hardship.

STANDARD FOR A VARIANCE:

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

- not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

GENERAL FACTS:

- PD No. 193 states that minimum side yard setback for multiple-family structures 36' in height or less on lots zoned MF-2 Subdistrict is 10 feet. The applicant had submitted a site plan indicating a structure that provides a 0' setback from the side property lines on the southwest and northeast sides of the subject site or is 10' into the required 10' side yard setbacks.
- The site is flat, rectangular in shape (40' x 50'), and according to the application, 2,000 square feet in area. The site is zoned PD No. 193 (MF-2).
- DCAD records indicate "no records found" for property at 3237 Throckmorton.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) Planned Development, Multifamily)
North: PD No. 193 (MF-2) Planned Development, Multifamily)
South: PD No. 193 (MF-2) Planned Development, Multifamily)
East: PD No. 193 (MF-2) Planned Development, Multifamily)
West: PD No. 193 (MF-2) Planned Development, Multifamily)

Land Use:

The subject site is undeveloped. The areas to the north and south appear to be developed as residential uses; and the areas immediately east and west are undeveloped and the subject sites of BDA 112-025, 026, and 028.

Zoning/BDA History:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. BDA 112-025, Property at 4001 Hall Street (two lots northeast of the subject site) | <p>On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in a required side yard setback on property</p> |
|---|--|

that is currently undeveloped.

2. BDA 112-026, Property at 3233 Throckmorton Street (the lot immediately northeast of the subject site)
On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is currently undeveloped.
3. BDA 112-028, Property at 3241 Throckmorton Street (the lot immediately southwest of the subject site)
On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setback on the northeast side of the property that is currently undeveloped.

Timeline:

- December 21, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 8, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- February 8, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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.
- February 29, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public

hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

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

STAFF ANALYSIS:

- The requests focus on constructing and maintaining an attached single family with an approximately 1,000 square foot building footprint, part of which would be located in the site's 10' side yard setbacks on southwest and northeast sides of site that is currently undeveloped.
- According to calculations taken from the submitted site plan by the Board Administrator, two areas of approximately 250 square feet each (or a combined total of 1/2) of the approximately 1,000 square foot building footprint are located in the required 10' side yard setbacks on the southwest and northeast sides of the subject site.
- The site is flat, rectangular in shape (40' x 50'), and according to the application, 2,000 square feet in area. The site is zoned PD No. 193 (MF-2).
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The 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 No. 193 (MF-2) 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 No. 193 (MF-2) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure encroaching into the required side yard setbacks would be required to be maintained in the location and to the features shown on this document.
-

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

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

APPEARING IN OPPOSITION: No one

MOTION: Moore

I move that the Board of Adjustment, in Appeal No. **BDA 112-027**, on application of Rob Baldwin, **grant** a 10-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: Maten

AYES: 4– Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4-0(unanimously)

FILE NUMBER: BDA 112-028

BUILDING OFFICIAL’S REPORT:

Application of Rob Baldwin for a variance to the side yard setback regulation at 3241 Throckmorton Street. This property is more fully described as Lot 18A in City Block A/1324 and is zoned PD-193 (MF-2), which requires side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 0 foot side yard setback, which will require a variance of 10 feet.

LOCATION: 3241 Throckmorton Street

APPLICANT: Rob Baldwin

REQUEST:

- A variance to the side yard setback regulations of 10’ is requested in conjunction with constructing and maintaining an attached single family with an approximately 850 square foot building footprint, part of which would be located in the site’s 10’ side yard setback on the northeast sides of site that is currently undeveloped. (Note that this application is located immediately southeast of three other properties where the same applicant seeks similar side yard variance requests of the Board of Adjustment Panel C: BDA 112-025, 026, and 027).

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how the restrictive area, shape, or slope of the site/lot precludes it from being developed in a manner commensurate with development found on other PD. No. 193 (MF-2) zoned lots or how granting the variance was not to relieve a self-created hardship.

STANDARD FOR A VARIANCE:

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

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

GENERAL FACTS:

- PD No. 193 states that minimum side yard setback for multiple-family structures 36' in height or less on lots zoned MF-2 Subdistrict is 10 feet.
The applicant had submitted a site plan indicating a structure that provides a 0' setback from the side property line on the northeast side of the subject site or is 10' into this required 10' side yard setback.
- The site is flat, rectangular in shape (42.5' x 50'), and according to the application, 2,550 square feet in area. The site is zoned PD No. 193 (MF-2).
- DCAD records indicate "no records found" for property at 3241 Throckmorton.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) Planned Development, Multifamily)

North: PD No. 193 (MF-2) Planned Development, Multifamily)
South: PD No. 193 (MF-2) Planned Development, Multifamily)
East: PD No. 193 (MF-2) Planned Development, Multifamily)
West: PD No. 193 (MF-2) Planned Development, Multifamily)

Land Use:

The subject site is undeveloped. The areas to the north, south, and west appear to be developed as residential uses; and the area immediately east is undeveloped and the subject sites of BDA 112-025, 026, and 027.

Zoning/BDA History:

1. BDA 112-025, Property at 4001 Hall Street (three lots northeast of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider a request for a variance to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in a required side yard setback on property that is currently undeveloped.

2. BDA 112-026, Property at 3237 Throckmorton Street (two lots northeast of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is currently undeveloped.

3. BDA 112-027, Property at 3237 Throckmorton Street (the lot immediately northeast of the subject site) On March 19, 2012, the Board of Adjustment Panel C will consider requests for variances to the side yard setback regulations of 10' requested in conjunction with constructing and maintaining an attached single family home, part of which is located in required side yard setbacks on property that is currently undeveloped.

Timeline:

December 21, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 8, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

February 8, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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.

February 29, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

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

STAFF ANALYSIS:

- The request focuses on constructing and maintaining an attached single family with an approximately 850 square foot building footprint, part of which would be located in the site's 10' side yard setbacks on northeast side of site that is currently undeveloped.
- According to calculations taken from the submitted site plan by the Board Administrator, an approximately 250 square foot area (or approximately 1/3) of the approximately 850 square foot building footprint is located in the required 10' side yard setback on the northeast side of the site.
- The site is flat, rectangular in shape (42.5' x 50'), and according to the application, 2,550 square feet in area. The site is zoned PD No. 193 (MF-2).
- The applicant has the burden of proof in establishing the following:

- That granting the variance to side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (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 No. 193 (MF-2) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure encroaching into the required side yard setback would be required to be maintained in the location and to the features shown on this document.

BOARD OF ADJUSTMENT ACTION: MARCH 19, 2012

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

APPEARING IN OPPOSITION: No one

MOTION: **Moore**

I move that the Board of Adjustment, in Appeal No. **BDA 112-028**, on application of Rob Baldwin, **grant** a 10-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Maten**

AYES: 4– Boyd, Moore, Maten, Richard

NAYS: 0 –

MOTION PASSED: 4-0(unanimously)

MOTION: **Moore**

I move to adjourn this meeting.

SECONDED: **Maten**

AYES: 4–Boyd, Moore, Maten, Richard

NAYS: 0 -

MOTION PASSED: 4 – 0 (Unanimously)

2:44 P. M. - Board Meeting adjourned for **March 19, 2012.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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