

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN AUDITORIUM  
MONDAY, AUGUST 18, 2014**

MEMBERS PRESENT AT BRIEFING: Ross Coulter, regular member, Peter Schulte, regular member, Marla Beikman, regular member and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM BRIEFING: Bruce Richardson, Chair, Joe Carreon regular member

MEMBERS PRESENT AT HEARING: Ross Coulter, regular member, Peter Schulte, regular member, Marla Beikman, regular member and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM HEARING: Bruce Richardson, Chair, Joe Carreon regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator and Acting Board Secretary, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Ali Hatefi, Engineer, Phil Erwin, Chief Arborist, Danielle Jimenez, Planner, Neva Dean, Interim Asst. Director and Donna Moorman, Chief Planner

STAFF PRESENT AT HEARING: Steve Long, Board Administrator and Acting Board Secretary, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Ali Hatefi, Engineer, Phil Erwin, Chief Arborist, Danielle Jimenez, Planner, and Donna Moorman, Chief Planner

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**11:20 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **August 18, 2014** docket.  
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**1:10 P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel C June 23, 2014 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: August 18, 2014**

**MOTION: Schulte**

I move **approval** of the Monday, June 23, 2014 public hearing minutes.

**SECONDED: Beikman**

**AYES: 4– Coulter, Schulte, Beikman, Bartos**

**NAYS: 0 –**

**MOTION PASSED: 4– 0 (unanimously)**

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**MISCELLANEOUS ITEM NO. 2**

The City Attorney's Office will brief on certain Dallas Development Code standards regarding applications to the Board of Adjustment and procedures of the Board of Adjustment.

**\*This was not an action item.**

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**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**

**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 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 a 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.
- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request in this case is triggered by new construction of a parking lot.
- The Chief Arborist notes that the site is deficient in meeting the landscape requirements in that the proposed plan does not fully comply with sidewalk, tree planting zone, and off-street parking and screening requirements.
- The Chief Arborist highlights 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 supports the request because the applicant has demonstrated that the submitted alternate landscape plan meets the spirit and intent of the PD 193 regulations.
- 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.

## **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 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the 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).

**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

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**FILE NUMBER:** BDA 134-067

**BUILDING OFFICIAL’S REPORT:** Application of Guadalupe Mora represented, by Homero Duarte, for a special exception to the fence height regulations at 9229 Hathaway Street. This property is more fully described as Lot 29A, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 10 foot high fence, which will require a 6 foot special exception to the fence height regulations.

**LOCATION:** 9229 Hathaway Street

**APPLICANT:** Guadalupe Mora  
Represented by Homero Duarte

**REQUEST:**

A request for a special exception to the fence height regulations of 6’ is made to construct and maintain the following in the 40’ front yard setback on a site that is being developed with a single family home/use:

- a 7’ 3” high open iron fence with 8’ high masonry columns parallel to the street with a recessed entryway at the street that will include a 10’ high open iron gate with 10’ high masonry columns and two 7’ 3” – 8’ 3” high solid masonry (approximately 13’ long) wing walls;
- a 7’ 3” high open iron fence with 8’ masonry columns perpendicular to the street on the north side of the site in the front yard setback; and
- a 7’ 6’ high solid masonry fence with 8’ high columns perpendicular to the street on the south side of the site in the front yard setback.

**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-1ac (A) (Single family district 1 acre)
- North: R-1ac (A) (Single family district 1 acre)
- South: R-1ac (A) (Single family district 1 acre)
- East: R-1ac (A) (Single family district 1 acre)
- West: R-1ac (A) (Single family district 1 acre)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 078-158K, property at 9226 Hathaway Street (the lot east of the subject site)
 

On December 15, 2008, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4’ 8” and imposed the submitted revised site plan/elevation and submitted landscape plan as a condition. The case report stated that the request was made in conjunction with constructing and maintaining a solid fence and gate in the site’s 40 foot front yard setback.
2. BDA 012-218, property at 5538 Chatham Hill Road (two lots north of the subject site)
 

On August 27, 2002, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 2’ 6” and imposed a condition that compliance with the submittal of a full scale site plan and elevation to the Board Administrator is required. The case report stated that the request was made in conjunction with constructing and maintaining a 6’ high open metal fence with 6.5’ high brick columns in the site’s 40 foot front yard setbacks along Chatham Hill Road and Hathaway Street.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining the following in the front yard setback on a site being developed with a single family home/use : 1) a 7’ 3” high open iron fence with 8’ high masonry columns parallel to the street with a recessed entryway at the street that will include a 10’ high open iron gate with 10’ high masonry columns and two 7’ 3” – 8’ 3” high solid masonry (approximately 13’ long) wing walls; 2) a 7’ 3” high open iron fence with 8’ masonry columns perpendicular to

the street on the north side of the site in the front yard setback; and 3) a 7' 6' high solid masonry fence with 8' high columns perpendicular to the street on the south side of the site.

- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan/elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 10'.
- The following additional information was gleaned from the submitted site plan/elevation:
  - The proposal is represented as being approximately 190' in length parallel to the street and approximately 35' in length perpendicular to the street on the north and south sides of the site in the front yard setback.
  - The proposal is represented as being located approximately 5' the front property line or about 20' from the pavement line. (The proposed gate is represented as being located approximately 12' from the property line or approximately 25' from the pavement line).
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback – an approximately 8' high open metal fence located immediately east of the subject site that appears to be a result of an approved fence height special exception request granted by the Board of Adjustment in 2008: BDA 078-158K (see the “Zoning/BDA History” section of this case report for additional details).
- As of August 11, 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 6' will not adversely affect neighboring property.
- Granting this special exception of 6' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

### **Timeline:**

May 30, 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 15, 2014: The Board Administrator contacted the applicant's representative and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the July 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 5, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Chief Planner, the Assistant Building Official, the Board Administrator, Building Inspection Senior Plans Examiners/Development Code Specialists, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: August 18, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment grant application **BDA 134-067** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Beikman**

**AYES: 4– Coulter, Schulte, Beikman, Bartos**

**NAYS: 0 –**

**MOTION PASSED: 4– 0 (unanimously)**

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**FILE NUMBER:** BDA 134-074

**BUILDING OFFICIAL'S REPORT:** Application of Ken Reese, represented by Robert Reeves and Associates, for a variance to the side yard setback regulations at 3000 Turtle Creek Plaza. This property is more fully described as Lot 1R, Block A/993, and is zoned PD-193 (PDS 61), which requires a 43 foot 1/2 inch side yard setback. The applicant proposes to construct and maintain a structure and provide a 0 foot side yard setback, which will require a 43 foot 1/2 inch variance to the side yard setback regulations.

**LOCATION:** 3000 Turtle Creek Plaza

**APPLICANT:** Ken Reese  
Represented by Robert Reeves and Associates

**REQUEST:**

A variance to the side yard setback regulations of 43' 1/2" is requested to construct/maintain an elevated pedestrian bridge structure that would connect a proposed three-story, approximately 66' high, approximately 169,000 square foot office structure to the Katy Trail in the 43' 1/2" side yard setback on the east side of the site. (Note that part of the office structure that is to be located in the site's required 43' 1/2" side yard setback on the east side of the property was granted variance to the side yard setback regulations by Board of Adjustment Panel C in April of 2014: BDA 134-037).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The applicant has substantiated how the subject site is unique and different from most lots zoned PD 193 in that subject site is: 1) somewhat irregular in shape; 2) of restrictive area caused by 33 percent of it as floodway easement (non-buildable area); and 3) sloped with a 24 foot change in grade from near the center of the site westward to Cedar Springs Road.
- In addition, granting the variance is not contrary to the public interest in that, according to the applicant, the Park Board has approved this pedestrian link along with improvements the applicant intends to construct and maintain within Katy Trail, and that the request is supported by the Oak Lawn Committee and the Friends of the Katy Trail.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD 193 (PDS 61) (Planned Development, Planned Development)
- North: PD 193 (O-2) (Planned Development, Office)
- South: PD 184 (Planned Development)
- East: PD 193 (O-2 & PDS 94) (Planned Development, Office and Planned Development)
- West: PD 193 (O-2) (Planned Development, Office)

**Land Use:**

The subject site is under development. The area to the north is Turtle Creek; the area immediately east is the Katy Trail, the area to the south is developed with office uses, and the area to the west is office use and undeveloped land.

**Zoning/BDA History:**

- |   |   |
|---|---|
| 1. BDA 967-251, Property at 2920 Turtle Creek Plaza ( the subject site) | On May 19, 1997, the Board of Adjustment Panel C granted a request for a variance to the height regulations of 60 feet. The case report states that the request was made to construct and maintain an approximately 300,000 square foot, 300 foot high condominium tower use.                         |
| 2. BDA 112-085, Property at 3000 Turtle Creek Plaza ( the subject site) | On September 17, 2012, the Board of Adjustment Panel C granted a request for a variance to the off-street parking regulations of 110 spaces (or a 25 percent reduction of the 441 off-street parking spaces that are required). The case report stated that this request was made in conjunction with |

constructing and maintaining an approximately 161,500 square foot office use/structure on a site that is currently undeveloped where the applicant proposed to provide 331 (or 75 percent) of the required 441 off-street parking spaces in conjunction with constructing and maintaining this use with this square footage.

3. BDA 134-037, Property at 3000 Turtle Creek Plaza ( the subject site)

On April 21, 2014, the Board of Adjustment Panel C granted a request for a variance to the side yard setback regulations of 33' ½" and imposed the submitted site plan as a condition to this request, and a special exception to the landscape regulations and imposed the following condition to this request: A landscape plan that complies with 51P-193.126 for O-2 office districts must be submitted for permit with the exception to be provided for: 1) front yard designated landscape areas, 2) sidewalks, and 3) tree planting zones. Trees and landscape areas must be installed according to diagrams in the Landscape Code Enlargement exhibit and the tree specifications required in 51P-193.126(b)(5)(C). The case report stated that these requests were made to construct/maintain a three-story, approximately 66' high, approximately 169,000 square foot office structure, part of which would be located in the site's required 43' ½" side yard setback on the east side of the property, and not fully comply with landscape regulations. (Note that on June 23, 2014, the Board of Adjustment Panel C granted the applicant's miscellaneous item request to waive the two year time limitation on a final decision reached in order for the applicant to file a new application for a side yard setback variance on the property).

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

- This request focuses on constructing and maintaining construct/maintain an elevated pedestrian bridge structure that would connect a proposed three-story, approximately 66' high, approximately 169,000 square foot office structure to the Katy Trail and be located in the 43' ½" side yard setback on the east side of the subject site.
- The subject site is zoned PD 193 (PDS 61). While PDS 61 makes setback/yard requirements for "retirement housing community" use, the PDS states that in general, the yard, lot, and space regulations for the O-2 Office Subdistrict apply in this subdistrict.
- The side yard provisions for properties in the O-2 Sudistrict are as follows: If a nonresidential building is erected or altered to exceed 36 feet in height, and additional setback must be provided that is equal to one-half the total height of the building, up to a maximum total setback of 50 feet. The additional setback is only required for that portion of a building that exceeds 36 feet in height.
- The applicant has submitted a site plan denoting the proposed bridge structure located in the additional setback required for the portion over 36' in height- a structure at this height located on the eastern side property line or 43' ½" into the required 43' ½" side yard setback.
- The applicant has submitted a section/elevation document that denotes the setback encroachment of the proposed structure as it relates to the side yard setback.
- The subject site is somewhat irregular in shape and, according to the application, 5.853 acres in area. The applicant has submitted documents that indicate that the 33 percent of the site is floodway easement (non-buildable area) and has a 24 foot change in grade from near the center of the site westward to Cedar Springs Road.
- DCAD records indicate "no improvements" for property at 3000 Turtle Creek Plaza.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site (that differs from other parcels of land by being of such a restrictive area, shape, or slope) that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (PDS 61) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (PDS 61) zoning classification.

- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document– which in this case is for the portion of a pedestrian bridge structure over 36’ in height located as close as on the site’s eastern side property line (or as much as 43’ ½” into this 43’ ½” side yard setback).

**Timeline:**

- June 12, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 15, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”
- July 15, 2014: The Board Administrator contacted the applicant’s representative and emailed him the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 24, 2014: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- July 29, 2014: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- August 5, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Chief Planner, the Assistant Building Official, the Board Administrator, Building Inspection Senior Plans Examiners/Development Code Specialists, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable

Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

August 8, 2014: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment C).

**BOARD OF ADJUSTMENT ACTION: August 18, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment grant application **BDA 134-074** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Beikman**

AYES: 4– Coulter, Schulte, Beikman, Bartos

NAYS: 0 –

MOTION PASSED: 4– 0 (unanimously)

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FILE NUMBER: BDA 134-075

**BUILDING OFFICIAL'S REPORT:** Application of Maxwell Fisher of Masterplan for a special exception to the off-street parking regulations at 8333 Douglas Avenue. This property is more fully described as Lot 5A, Block 2/5625, and is zoned PD-314 (Tract 2), which requires parking to be provided. The applicant proposes to construct and maintain a structure for office and financial institution with drive-in widow uses, and provide 1,630 of the required 1,791 parking spaces, which will require a 161 space special exception to the off-street parking regulations.

LOCATION: 8333 Douglas Avenue

APPLICANT: Maxwell Fisher of Masterplan

## **REQUEST:**

A special exception to the off-street parking regulations of 161 spaces is requested to replace an existing parking garage with a new 13-story, approximately 180,000 square foot office tower (with inclusive parking garage) on a site developed with three other existing structures (office and financial institution with drive-in window uses) and provide 1,630 (or 91 percent) of the 1,791 off-street parking spaces required by code.

## **STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:**

- 1) 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. 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 delta credits, as defined in Section 51A-4.704(b)(A).
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
  - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
  - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
  - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
  - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
  - (E) The availability of public transit and the likelihood of its use.
  - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
  - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- The special exception of 161 spaces shall automatically and immediately terminate if and when the mix of office and financial institution with drive-in window uses that would normally need no more than 1,791 required parking spaces is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to the applicant’s request.
- The applicant has substantiate how the parking demand generated by the mix of office and financial institution with drive-in window uses 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.
- The applicant has provided a parking study that states that the peak parking demand extrapolated for full occupancy of the site with the additional building proposed for the site is 1,177 parked vehicles which is about 28 percent (or 453 spaces) less than the requested parking requirement of 1,630.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD No. 314 (Planned Development District)
- North: PD No. 314 (Planned Development District)
- South: PD No. 314 (Planned Development District)
- East: PD No. 314 (Planned Development District)
- West: PD No. 314 (Planned Development District)

**Land Use:**

The subject site is partially developed with three office towers. The areas to the north, east, south, and west are developed with office, restaurant, and retail uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. BDA 078-111, 8343 Douglas Avenue/AKA 8333 or 8383 Douglas Avenue (the subject site)</li> </ol> | <p>On August 11, 2008, the Board of Adjustment Panel C granted a request for a special exception to the parking regulations of 75 spaces, and imposed the following condition to this request: The special exception shall automatically and immediately terminate if and when the office</p> |
|--|---|

and financial institution with drive-in window uses on the site are changed or discontinued. The case report stated that the request was made in conjunction with completing and maintaining a seven story tower with 145,052 square feet of office use and a separate one story structure with 3,983 square feet of “financial institution with drive-in window” use where the applicant proposed to provide 1,176 (or 94%) of the total required 1,251 off-street parking spaces on a site that was partially currently under development and partially developed with an existing approximately 270,000 square foot office tower.

2. BDA 067-051, 8333 Douglas Avenue/AKA 8383 Douglas Avenue (the subject site)

On August 13, 2007, the Board of Adjustment Panel C denied a request for a special exception to the parking regulations of 181 spaces without prejudice. The case report stated that the request was made in conjunction with constructing an office tower with 144,400 square feet of office uses and a 4,600 square foot bank use on a site currently developed with an approximately 278,000 square foot office tower.

3. BDA 056-053, 8383 Douglas Avenue/AKA 8333 Douglas Avenue (the subject site)

On February 13, 2006, the Board of Adjustment Panel C granted a request for a special exception to the parking regulations of 288 spaces and imposed the following conditions: the special exception shall automatically and immediately terminate if and when the office and restaurant uses on the site are changed or discontinued. The case report stated that the request was made in conjunction with constructing and maintaining a new 126,000 square foot office tower and an 8,500 square foot restaurant on the site.

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

- This request focuses on replacing an existing parking garage with a new 13-story, approximately 180,000 square foot office tower (with inclusive parking garage) on a site developed with three other existing structures (office and financial institution with drive-in window uses) and providing 1,630 (or 91 percent) of the 1,791 off-street parking spaces required by code.
- The Dallas Development Code requires the following off-street parking requirement:
  - Office: one space per 333 spaces of floor area.
  - Financial institution with drive in window: One space per 333 square feet of floor area.
- The applicant is proposing to provide 1,630 of the required 1,791 required off-street parking spaces.
- The applicant has provided a parking study that states that the peak parking demand extrapolated for full occupancy of the site with the additional building proposed for the site is 1,177 parked vehicles which is about 28 percent (or 453 spaces) less than the requested parking requirement of 1,630.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the office and financial institution with drive-in window uses does not warrant the number of off-street parking spaces required, and
  - The special exception of 161 spaces (or a 9 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 161 spaces shall automatically and immediately terminate if and when the office and financial institution with drive-in window uses are changed or discontinued, the applicant would be allowed to construct the proposed structure and maintain the existing structures with the proposed and existing uses and provide 1,630 of the 1,791 code required off-street parking spaces.

## **Timeline:**

June 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.

July 15, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

- July 15, 2014: The Board Administrator contacted the applicant and emailed him the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the 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 5, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- August 5, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections.”

**BOARD OF ADJUSTMENT ACTION: August 18, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment grant application **BDA 134-075** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 161 spaces shall automatically and immediately terminate if and when the mix of office and financial institution with drive-in

window uses that would normally need no more than 1,791 required parking spaces is changed or discontinued.

**SECONDED: Beikman**

**AYES:** 4– Coulter, Schulte, Beikman, Bartos

**NAYS:** 0 –

**MOTION PASSED:** 4– 0 (unanimously)

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**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 have been 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 intends to demolish:

1. A variance to the front yard setback regulations of 13’ is 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” is 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’ is 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.

**STAFF RECOMMENDATION (front and side yard setbacks):**

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 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.
- The applicant has 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) is commensurate with other developments found on similarly zoned properties with an average approximately 2,900 square feet of living and garage space.
- Granting the variances would 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 is the only lot in its blockface between Richmond Avenue and Prospect Street with a front yard in which to maintain.

**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:

- 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.
- The applicant has 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) is commensurate with other developments found on similarly zoned properties with an average approximately 2,900 square feet of living and garage space.
- Granting this variance would not appear to be contrary to public interest in that Sustainable Development and Construction Department Senior Engineer has no objections if the Board imposes the staff suggested conditions.

**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 focuses 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 has submitted a site plan that shows a structure located 12’ from the front property line or 13’ into the 25’ front yard setback.
- The applicant has also submitted a plan that denotes 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 intends 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 is 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 has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which, in this case, is a structure to be located 12’ from the front property line or 13’ into the 25’ front yard setback.

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

- This request focuses 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 has 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 has also submitted a plan that denotes 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 intends 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 has the burden of proof in establishing the following:
  - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.

- If the Board were to grant 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.

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

- The requests focuses 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 1<sup>st</sup> floor plan denotes 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 Senior 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 23<sup>rd</sup> 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 has the burden of proof in establishing the following:
  - That granting the variance to the 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 R-7.5(A) zoning classification.

- The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance request, 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).

**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 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 13<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 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 Senior 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 Senior 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 30<sup>th</sup> deadline to submit additional evidence for staff review and the August 8<sup>th</sup> 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 Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

No 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 23<sup>rd</sup> 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 23<sup>rd</sup> public hearing.

**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

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**MOTION: Schulte**

I move to adjourn this meeting.

**SECONDED: Bartos**

**AYES: 4 –Coulter, Schulte, Beikman, Bartos**

**NAYS: 0 -**

**MOTION PASSED: 4 – 0 (unanimously)**

**2:55 P. M. - Board Meeting adjourned for August 18, 2014.**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

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