

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
MONDAY, OCTOBER 15, 2012**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Joe Carreon, regular member and Danny Alan Scott alternate member

MEMBERS ABSENT FROM BRIEFING: Bob Richard, regular member

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Joe Carreon, regular member and Danny Alan Scott alternate member

MEMBERS ABSENT FROM HEARING: Bob Richard, regular member

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

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

11:30 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 15, 2012** docket.

1:09 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 September 17, 2012 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: OCTOBER 15, 2012

MOTION: Coulter

I move **approval** of the Monday, **September 17, 2012** public hearing minutes.

SECONDED: Scott

AYES: 5– Richardson, Maten, Coulter, Carreon, Scott

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

Approval of the Board of Adjustment Panel C’s 2013 Public Hearing Schedule.

BOARD OF ADJUSTMENT ACTION: OCTOBER 15, 2012

MOTION: Maten

I move **approval** of **Panel C’s 2013** Public Hearing Schedule.

SECONDED: Coulter

AYES: 5– Richardson, Maten, Coulter, Carreon, Scott

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 112-093

BUILDING OFFICIAL’S REPORT:

Application of Delia Duran for a special exception to the side yard setback regulations at 3015 Culver Street. This property is more fully described as Lot 4 in City Block F/2106 and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport in a side yard and provide a 0 foot setback, which will require a special exception of 5 feet.

LOCATION: 3015 Culver Street

APPLICANT: Delia Duran

REQUEST:

A special exception to the side yard setback regulations of 5' is requested in conjunction with generally maintaining an approximately 590 square foot carport that is attached to a single-family home, part of which is located in the site's eastern 5' side yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, *in the opinion of the Board*, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is *when in the opinion of the board*, the carport will not have a detrimental impact on surrounding properties.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with a single family home. The area to the north is Interstate 30, and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. BDA 045-256, Property at 3110 Culver Street (five lots southeast of the subject site)

On August 16, 2005, the Board of Adjustment Panel A granted a request for a special exception to the side yard setback regulations of 5' and imposed the following conditions: the carport must remain open at all times; there must be no lot-to-lot drainage in conjunction with this proposal; all applicable building permits must be obtained; compliance with the submitted site plans and elevations is required; and No item (other than a motor vehicle) may be stored in the carport. The case report stated that the request was made in conjunction with maintaining an approximately 500 square foot carport.

2. BDA 045-170, 3114 Culver Street (six lots southeast of the subject site)

On April 19, 2005, the Board of Adjustment Panel A granted a request for a special exception of 5' requested in conjunction with maintaining an approximately 756 square foot carport on the site's side property line. The board imposed the following conditions: the carport must remain open at all times; lot-to-lot drainage is prohibited; all applicable permits must be obtained; and compliance with the submitted site plan is required.

3. BDA 978-217, Property at 3119 Culver Street (seven lots east of the subject site)

On August 25, 1998, the Board of Adjustment Panel A granted a request for a special exception to the side yard setback regulations of 5' and imposed the following conditions: 1) compliance with the submitted site plan is required; 2) the carport must remain open at all times; 3) all applicable building permits must be obtained; and 4) lot-to-lot drainage is prohibited. The case report stated that the request was made in conjunction with maintaining an approximately 900 square foot (75' x 12') three-vehicle metal carport.

Timeline:

August 22, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

September 19, 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 September 26th deadline to submit additional evidence for staff to factor into their analysis; and the October 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 2, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Building Inspection Senior Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on generally maintaining an approximately 590 square foot carport that is attached to a single-family home, part of which is located in the site's eastern 5' side yard setback. A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted a site plan and elevations indicating the location of the carport about 1' away from the site's eastern side property line.
- The following information was gleaned from the submitted site plan:
 - The carport is represented to be 43' in length and 13.7' in width (approximately 590 square feet in total area) of which approximately 172 square feet (or approximately 1/3) is located in the eastern side yard setback.
- The following information was gleaned from the submitted elevations:

- Represented to be approximately 8' 10" – 10' 6" in height with wood posts (with "1 hour fire rated siding") and "asphalt shingles to match house" roof.
- The subject site is approximately 150' x 50' (or 7,500 square feet) in area.
- Approximately six other carports were identified on the block in a field visit conducted by the Board Administrator. Of these six, it appeared that half had recorded history with having special exceptions granted by the Board of Adjustment.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- As of October 8, 2012, no letters had been submitted in support of the request or in opposition.
- Granting this request and imposing the following conditions would require that the carport be constructed/maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted site plan and elevations is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.

BOARD OF ADJUSTMENT ACTION: OCTOBER 15, 2012

APPEARING IN FAVOR: Daniel Duran, 3015 Culver ST., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Carreon

I move that the Board of Adjustment, in Appeal No. **BDA 112-093**, on application of Delia Duran, **grant** the special exception of 5 feet to the side yard setback regulations to construct/maintain a carport as required in the Dallas Development Code because our evaluation of the property and the testimony shows that the carport will not have a detrimental impact on surrounding properties. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted with this carport special exception.
- All applicable building permits must be obtained.
- Compliance with the submitted revised site plan and revised elevations is required.
- No item (other than a motor vehicle) may be stored under the carport.

SECONDED: **Maten**
AYES: 5– Richardson, Maten, Coulter, Carreon, Scott
NAYS: 0 –
MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 112-097

BUILDING OFFICIAL’S REPORT:

Application of Ed Simons for a special exception to the fence height regulations at 5020 Elm Hollow Drive. This property is more fully described as Lot 1A in City Block G/5518 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 a 6 foot high fence, which will require a special exception of 2 feet.

LOCATION: 5020 Elm Hollow Drive.

APPLICANT: Ed Simons

REQUEST:

A special exception to the fence height regulations of 2’ is requested in conjunction with constructing and maintaining a 6’ high open wrought iron fence with 6’ high masonry columns and a 6’ high open wrought iron pedestrian gate on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence height regulations since the basis for this type of appeal is *when in the opinion of the board*, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-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 developed with a single family home. The areas to the north and east developed with single family uses; and the areas to the south and west are undeveloped.

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:

August 23, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

September 19, 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 September 26th deadline to submit additional evidence for staff to factor into their analysis; and the October 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 28, 2012: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

October 2, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Building Inspection Senior Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

October 4, 2012: The applicant submitted additional information beyond what was submitted with the original application (see Attachment B).

GENERAL FACT /STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 6' high open wrought iron fence with 6' high masonry columns and a 6' high open wrought iron pedestrian gate on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had submitted a site plan and revised partial elevation that shows the proposal in the front yard reaching a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
 - Approximately 100' in length parallel to the street, approximately 26' - 40' from the front property line and approximately 36' – 50' from the pavement line where no home would have direct/indirect frontage to the proposal since the lot immediately north of the site faces westward onto Bridge Hollow.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above 4 feet high in a front yard setback. The subject site is located just inside a gated community located behind a 9' high solid masonry wall.
- As of October 8, 2012, no letters had been submitted in support of the request or in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 6' in height) will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and revised partial elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: OCTOBER 15, 2012

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

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 112-097**, on application of Ed Simons, **grant** the request of this applicant to construct and/or maintain a 6 foot-high fence on the property as special exceptions to the height requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and revised partial elevation is required.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Carreon, Scott

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 112-101

BUILDING OFFICIAL’S REPORT:

Application of Josh LeComte for variances to the front yard setback and off-street parking regulations at 1808 Euclid Avenue. This property is more fully described as Lot 22 in City Block 4/1987 and is zoned MF-2(A), which requires: (1) a front yard setback of 15 feet and (2) 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 an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain a structure and provide a 5 foot front yard setback, which will require a variance to the front yard setback regulations of 10 feet. The applicant also proposes to provide enclosed parking spaces with a setback of 5 feet, which will require a variance to the off-street parking regulations of 15 feet.

LOCATION: 1808 Euclid Avenue

APPLICANT: Josh LeComte

October 15, 2012 Public Hearing Notes:

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

REQUESTS:

- The following appeals have been made in this application on a site that is currently undeveloped:
 1. a variance to the front yard setback regulations of 10’ is requested in conjunction with constructing and maintaining a residential structure (according the a

document submitted by the applicant as either a one or three-unit), part of which is located in one of the site's two 15' front yard setbacks (Lewis Street);

2. a variance to the off-street parking regulations of 10' (reduced from what had been originally requested of up to 15') is requested in conjunction with enclosing parking spaces with garage doors in the proposed residential structure where the parking spaces that are to be enclosed with garage doors would be located less than the required 20' distance from right-of-way line Lewis Street.

(No part of this application has been made for variance to the site's Euclid Street front yard setback).

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Denial of both requests

Rationale:

- Although the subject site is unique and different from most lots zoned MF-2(A) in that it is irregular in shape, the applicant has not substantiated by defining what he actually proposes on the site how the requested variance is necessary to permit its development (even with its triangular shape) in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning.
- Additionally while the property is clearly physically constrained in relation to similarly zoned properties in the area, the use of the property and the number of dwelling units ultimately constructed will have an impact on whether the proposed development may have an adverse impact on the neighboring properties. More than one dwelling unit with the requested garage door variance could cause additional parking on the street and pose traffic concerns.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multi family district)
North: MF-2(A) (Multi family district)
South: PD 462 (Planned Development)
East: PD 462 (Planned Development)
West: MF-2(A) & P(A) (Multi family and parking district)

Land Use:

The subject site is undeveloped. The areas to the north and west are developed with residential uses; and the areas to the east and south are developed with retail 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:

August 22, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 12, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

September 19, 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 September 26th deadline to submit additional evidence for staff to factor into their analysis; and the October 5th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 22, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 2, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current

Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Building Inspection Senior Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

Staff concluded at this meeting that provisions in the Dallas Development Code precluded the applicant from seeking variance for the proposed two-unit structure on the site given its zoning and lot size.

- October 3, 2012: The Board Administrator, the Sustainable Development and Construction Department Current Planning Division Assistant Director, and the Building Inspection Senior Plans Examiner/Development Code Specialist contacted the applicant and conveyed conclusions reached at the staff review team meeting. The applicant chose to amend his application/proposal in order to retain his October 15th public hearing.
- October 3, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- October 4, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment C).
- October 5, 2012: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "Must provide a detailed site plan that provides a 20' distance between back of sidewalk to face of garage."

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request focuses on constructing and maintaining what is described in documentation submitted by the applicant as a one or three-unit residential structure, part of which is located in one of the site's two 15' front yard setbacks (Lewis Street).
- The subject site is located at the intersection of Euclid Street and Lewis Street. The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- Structures on lots zoned MF-2(A) are required to provide a minimum front yard setback of 15'. A revised "site plan" has been submitted denoting a 5' setback line on the side of the property, a 15' setback provided from the Euclid Street front property line, and a line labeled "10' front yard variance along Lewis" and a "10' garage door setback variance along Lewis."

- Unlike in most cases where staff is able to calculate the total building footprint of the applicant's proposal and how much of the proposal is to be located in a setback, staff is unable to determine specific information from the submitted revised "site plan" since there is no clear representation of the actual building footprint of the proposed structure.
- According to DCAD records, there are no "main improvements" or "additional improvements" at 1808 Euclid Street.
- The subject site is triangular in shape and according to the application, is 0.1 acres (or approximately 4,350 square feet) in area. The site is zoned MF-2(A).
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachments A, B, and C).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the Lewis Street front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(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 MF-2(A) zoning classification.
- If the Board were to grant the front yard setback variance request and impose the submitted revised site plan as a condition, the applicant would be afforded more flexibility in developing the site than in most setback variance applications where applicants submit a detailed site plan of the defined footprint of the proposal, its total square footage, and the specific area/amount of the proposal to be located in the required setback.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request focuses on enclosing parking spaces with garage doors in a proposed structure where the parking spaces that are to be enclosed with garage doors would be located less than the required 20' distance from right-of-way line on Lewis Street.
- 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.
- A revised "site plan" has been submitted denoting a 5' setback line on the side of the property, a 15' setback provided from the Euclid Street front property line, and a line labeled "10' front yard variance along Lewis" and a "10' garage door setback variance along Lewis."

- In most cases staff is able to determine from a submitted site plan (1) the size of the area in which the enclosed parking spaces are to be located, (2) the number of enclosed parking spaces that are part of the proposed development, and (3) the distance between each enclosed parking space from the right-of-way line and pavement line. Here, staff is unable to fully determine this information from the submitted revised “site plan,” as the only reference to the off-street parking variance on the revised site plan is a line labeled “10’ garage door setback variance along Lewis Street” and a pavement line that appears to be 11’ from the Lewis Street pavement line.
- According to DCAD records, there are no “main improvements” or “additional improvements” at 1808 Euclid Street.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked “Has no objections if certain conditions are met” commenting “Must provide a detailed site plan that provides a 20’ distance between back of sidewalk to face of garage.” As of 5:00 p.m., October 5, 2012, the applicant had not submitted a revised detailed site plan showing this distance between the garage and sidewalk.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations of 10’ 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 MF-2(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 MF-2(A) zoning classification.
- If the Board were to grant the off-street parking variance with the currently submitted revised site plan as a condition, the applicant would be afforded more flexibility in developing the site than in most off-street parking applications where applicants submit a detailed site plan showing the size of the area of in which the enclosed parking spaces are to be located, the number of enclosed parking spaces that are part of the proposed development, and the distance between each enclosed parking space from the right-of-way line and pavement line.
- If the Board were to grant the off-street parking variance, staff recommends imposing the following conditions:
 1. Compliance with the submitted revised 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).

BOARD OF ADJUSTMENT ACTION: OCTOBER 15, 2012

APPEARING IN FAVOR: Mark Shekter, 3624 Oak Lawn, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 112-101**, on application of Josh LeComte, **grant** a 10 foot variance to the minimum front yard setback regulations 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 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 revised site plan dated 10-12-12 with dimensions is required.

SECONDED: Maten

AYES: 5– Richardson, Maten, Coulter, Carreon, Scott

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MOTION #2: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 112-101**, on application of Josh LeComte, **grant** a 10 foot variance to the off-street parking regulations requiring an enclosed parking space be at least 20 feet from a right-of-way line, 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 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 revised site plan dated 10-12-12 with dimensions is required.

SECONDED: Maten

AYES: 5– Richardson, Maten, Coulter, Carreon, Scott

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MOTION: Maten

I move to adjourn this meeting.

SECONDED: Coulter

AYES: 5– Richardson, Maten Coulter, Carreon, Scott

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

1:45 P. M. - Board Meeting adjourned for **October 15, 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.