

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM
MONDAY, NOVEMBER 18, 2013**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Ross Coulter, regular member, Joe Carreon, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Ross Coulter, regular member, Joe Carreon, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Laura Morrison, Asst. City Atty., Todd Duerksen, Development Code Specialist, Neva Dean, Interim Asst. Director and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Laura Morrison, Asst. City Atty., Todd Duerksen, Development Code Specialist, Neva Dean, Interim Asst. Director and Trena Law, Board Secretary

11:06 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 18, 2013** docket.

1:05 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 October 21, 2013 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

MOTION: Schulte

I move **approval** of the Monday, **October 21, 2013** public hearing minutes.

SECONDED: Coulter

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

APPEARING IN FAVOR: Brittany Harris, 5811 Gaston Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move to **approve** to extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment’s favorable action on a request for a variance to the front yard setback regulations of 22 feet granted by Board of Adjustment Panel C on June 17, 2013.

SECONDED: Coulter

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 123-113

BUILDING OFFICIAL’S REPORT: Application of Jeanna Barry of North Texas Inspections for variances to the front and side yard setback regulations at 8320 Timberbrook Lane. This property is more fully described as Lot 65, Block B/8680 and is zoned PD 521 (S-9), which requires a 15 foot front yard setback and a 5 foot side yard setback. The applicant proposes to construct and maintain a structure and provide an 11 foot front yard setback, which will require a 4 foot variance to the front yard setback

regulations, and provide a 4 foot side yard setback, which will require a 1 foot variance to the side yard setback regulations.

LOCATION: 8320 Timberbrook Lane

APPLICANT: Jeanna Barry of North Texas Inspections

REQUESTS:

The following appeals have been made in conjunction with constructing and maintaining a two-story single family home structure on a site that is currently undeveloped:

1. A variance to the front yard setback regulations of 4' is requested as the proposed structure would be located 11' from one of the site's two front property lines (Forest Vista) or 4' into this required 15' front yard setback.
2. A variance to the side yard setback regulations of 1' is requested as the proposed structure would be located 4' from one of the site's two side property lines (the northern side property line) or 1' into this 5' side yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval of the front and side yard setback variances, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots in the PD 521 zoning district in that it is a corner lot with a restrictive area due to its size and its two front yard setbacks. The atypical two front yard setbacks on the lot precludes the applicant from developing it in a manner commensurate with development on other similarly

zoned properties of the same size and one front yard setback - in this case, the development on the property being the construction/maintenance of a single family home with an approximately 1,300 square foot building footprint. The site has a 25' width for development once a 15' front yard setback and a 5' side yard setback is accounted for on the 45' wide subject site – a lot width that the applicant states makes the lot unusable once required setbacks are accounted for.

BACKGROUND INFORMATION:

Zoning:

Site: PD 521 (S-9) (Planned Development)
North: PD 521 (S-9) (Planned Development)
South: PD 521 (S-9) (Planned Development)
East: PD 521 (S-9) (Planned Development)
West: PD 521 (S-9) (Planned Development)

Land Use:

The subject site is undeveloped. The lot to the north is being developed with a single family home; the areas to the east and west are developed with single family uses; and the lot to the south is undeveloped, and the property in which BDA 123-114 has been filed – an application for variances to the front and side yard setback regulations scheduled before Board of Adjustment Panel C on November 18, 2013.

Zoning/BDA History:

1. BDA 123-114, Property at 8334 Timberbrook Lane (the lot immediately south of the subject site) On November 18, 2013, the Board of Adjustment Panel C will consider requests for variances to the front and side yard setback regulations requested in conjunction with constructing and maintaining a single family home on a site that is undeveloped, part of which is proposed to be in the site's front and side yard setbacks.

Timeline:

September 24, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 23, 2013: 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 October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 30, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

November 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, 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 (front yard variance):

- This request focuses on constructing and maintaining a single family structure, part of which would be located in one of the two 15' front yard setbacks (Forest Vista) on a site that is currently undeveloped.
- Structures on lots zoned PD 521 (S-9) are required to provide a minimum front yard setback of 15'.
- The subject site is located at the northeast corner of Timberbrook Lane and Forest Vista. Regardless of how the proposed single family structure is to be oriented, the subject site has two 15' front yard setbacks along both streets. The site has a 15' front yard setback along Timberbrook Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 15' front yard setback along Forest Vista, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 5' setback is required. But the site's Forest Vista frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes east of the site that front/are oriented southward onto Forest Vista.

- The applicant has submitted a site plan that denotes a building footprint that is located 11' from the Forest Vista front property line or 4' into this 15' front yard setback. (No encroachment is proposed in the Timberbrook Lane 15' front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed single family home structure to be located in the site's Forest Vista 15' front yard setback is approximately 200 square feet in area or approximately 15 percent of the approximately 1,300 square foot building footprint.
- According to DCAD records, there are "no main improvements" for property at 8320 Timberbrook Lane.
- The subject site is somewhat sloped, somewhat irregular in shape (approximately 100' on the north; approximately 90' on the south; approximately 40' on the east; and approximately 49' on the west), and is according to the application 0.09 acres (or 3,900 square feet) in area. The site has two 15' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The site has an approximately 25' width for development once a 15' front yard and a 5' side yard setback is accounted for on the approximately 45' wide subject site. Most lots at this width in this zoning district would have 35'.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the Forest Vista 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 PD 521 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 521 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 11' from the Forest Vista front property line (or 4' into this 15' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on constructing and maintaining a single family structure, part of which would be located in one of the two 5' side yard setbacks (northern side) on a site that is currently undeveloped.
- Structures on lots zoned PD 521 (S-9) are required to provide a minimum side yard setback of 5'.

- The subject site is located at the northeast corner of Timberbrook Lane and Forest Vista. Regardless of how the proposed single family structure is to be oriented, the subject site has two 15' front yard setbacks along both streets. Because the virtually rectangular shape lot has two front yard setbacks, it has two 5' side yard setbacks (and no rear yard setback).
- The applicant has submitted a site plan that denotes a building footprint that is located as close as 4' from the northern side property line or 1' into this 5' side yard setback. (No encroachment is proposed in the eastern 5' side yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed single family home structure to be located in the site's northern 5' side yard setback is approximately 2.5 square feet in area or less than 1 percent of the approximately 1,300 square foot building footprint.
- According to DCAD records, there are "no main improvements" for property at 8320 Timberbrook Lane.
- The subject site is somewhat sloped, somewhat irregular in shape (approximately 100' on the north; approximately 90' on the south; approximately 40' on the east; and approximately 49' on the west), and is according to the application 0.09 acres (or 3,900 square feet) in area. The site has two 15' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The site has an approximately 25' width for development once a 15' front yard and a 5' side yard setback is accounted for on the approximately 45' wide subject site. Most lots at this width in this zoning district would have 35'.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the northern 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 521 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 521 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 a structure to be located as close as 4' from the northern side property line (or 1' into this 5' side yard setback).

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

APPEARING IN FAVOR: Don Allen, 6751 N. Frwy., Ft. Worth, TX

APPEARING IN OPPOSITION: No one

MOTION: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 123-113**, on application of Jeanna Barry, **grant** a 4-foot variance to the front yard setback regulations **and** a 1-foot variance to the side yard setback regulations, because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: Schulte

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 123-114

BUILDING OFFICIAL'S REPORT: Application of Jeanna Barry of North Texas Inspections for variances to the front and side yard setback regulations at 8334 Timberbrook Lane. This property is more fully described as Lot 54, Block B/8680 and is zoned PD 521 (S-9), which requires a 15 foot front yard setback and a 5 foot side yard setback. The applicant proposes to construct and maintain a structure and provide an 11 foot front yard setback, which will require a 4 foot variance to the front yard setback regulations, and provide a 4 foot side yard setback, which will require a 1 foot variance to the side yard setback regulation.

LOCATION: 8334 Timberbrook Lane

APPLICANT: Jeanna Barry of North Texas Inspections

REQUESTS:

The following appeals have been made in conjunction with constructing and maintaining a two-story single family home structure on a site that is currently undeveloped:

1. A variance to the front yard setback regulations of 4' is requested as the proposed structure would be located 11' from one of the site's two front property lines (Forest Vista) or 4' into this required 15' front yard setback.
2. A variance to the side yard setback regulations of 1' is requested as the proposed structure would be located 4' from one of the site's two side property lines (the southern side property line) or 1' into this 5' side yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval of the front and side yard setback variances, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots in the PD 521 zoning district in that it is a corner lot with a restrictive area due to its size and its two front yard setbacks. The atypical two front yard setbacks on the lot precludes the applicant from developing it in a manner commensurate with development on other similarly zoned properties of the same size and one front yard setback - in this case, the development on the property being the construction/maintenance of a single family home with an approximately 1,300 square foot building footprint. The site has a 22' width for development once a 15' front yard setback and a 5' side yard setback is accounted for on the 42' wide subject site – a lot width that the applicant states makes the lot unusable once required setbacks are accounted for.

BACKGROUND INFORMATION:

Zoning:

Site: PD 521 (S-9) (Planned Development)
North: PD 521 (S-9) (Planned Development)
South: PD 521 (S-9) (Planned Development)
East: PD 521 (S-9) (Planned Development)
West: PD 521 (S-9) (Planned Development)

Land Use:

The subject site is undeveloped. The areas to the east, south, and west are developed with single family uses; and the lot immediately north is undeveloped, and the property in which BDA 123-113 has been filed – an application for variances to the front and side yard setback regulations scheduled before Board of Adjustment Panel C on November 18, 2013.

Zoning/BDA History:

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|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. BDA 123-113, Property at 8320 Timberbrook Lane (the lot immediately north of the subject site) | On November 18, 2013, the Board of Adjustment Panel C will consider requests for variances to the front and side yard setback regulations requested in conjunction with constructing and maintaining a single family home on a site that is undeveloped, part of which is proposed to be in the site's front and side yard setbacks. |
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Timeline:

- September 24, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- October 23, 2013: 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 October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 30, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

November 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, 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 (front yard variance):

- This request focuses on constructing and maintaining a single family structure, part of which would be located in one of the two 15' front yard setbacks (Forest Vista) on a site that is currently undeveloped.
- Structures on lots zoned PD 521 (S-9) are required to provide a minimum front yard setback of 15'.
- The subject site is located at the southeast corner of Timberbrook Lane and Forest Vista. Regardless of how the proposed single family structure is to be oriented, the subject site has two 15' front yard setbacks along both streets. The site has a 15' front yard setback along Timberbrook Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 15' front yard setback along Forest Vista, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 5' setback is required. But the site's Forest Vista frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes east of the site that front/are oriented southward onto Forest Vista.
- The applicant has submitted a site plan that denotes a building footprint that is located 11' from the Forest Vista front property line or 4' into this 15' front yard setback. (No encroachment is proposed in the Timberbrook Lane 15' front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed single family home structure to be located in the site's Forest Vista 15' front yard setback is approximately 200 square feet in area or approximately 15 percent of the approximately 1,300 square foot building footprint.
- According to DCAD records, there are "no main improvements" for property at 8334 Timberbrook Lane.
- The subject site is flat, somewhat irregular in shape (approximately 90' on the north; approximately 100' on the south; approximately 40' on the east; and approximately

44' on the west), and is according to the application 0.09 acres (or 3,900 square feet) in area. The site has two 15' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.

- The site has an approximately 22' width for development once a 15' front yard and a 5' side yard setback is accounted for on the approximately 42' wide subject site. Most lots at this width in this zoning district would have 32'.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the Forest Vista 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 PD 521 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 521 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 11' from the Forest Vista front property line (or 4' into this 15' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on constructing and maintaining a single family structure, part of which would be located in one of the two 5' side yard setbacks (southern side) on a site that is currently undeveloped.
- Structures on lots zoned PD 521 (S-9) are required to provide a minimum side yard setback of 5'.
- The subject site is located at the northeast corner of Timberbrook Lane and Forest Vista. Regardless of how the proposed single family structure is to be oriented, the subject site has two 15' front yard setbacks along both streets. Because the virtually rectangular shape lot has two front yard setbacks, it has two 5 side yard setbacks (and no rear yard setback).
- The applicant has submitted a site plan that denotes a building footprint that is located 4' from the southern side property line or 1' into this 5' side yard setback. (No encroachment is proposed in the eastern 5' side yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed single family home structure to be located in the site's southern 5' side yard setback is approximately 53 square feet in area or approximately 4 percent of the approximately 1,300 square foot building footprint.

- According to DCAD records, there are “no main improvements” for property at 8334 Timberbrook Lane.
- The subject site is flat, somewhat irregular in shape (approximately 90’ on the north; approximately 100’ on the south; approximately 40’ on the east; and approximately 44’ on the west), and is according to the application 0.09 acres (or 3,900 square feet) in area. The site has two 15’ front yard setbacks; and two 5’ side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The site has an approximately 22’ width for development once a 15’ front yard and a 5’ side yard setback is accounted for on the approximately 42’ wide subject site. Most lots at this width in this zoning district would have 32’.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the southern 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 521 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 521 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 a structure to be located as close as 4’ from the southern side property line (or 1’ into this 5’ side yard setback).

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

APPEARING IN FAVOR: Don Allen, 6751 N. Frwy., Ft. Worth, TX

APPEARING IN OPPOSITION: No one

MOTION: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 123-114**, on application of Jeanna Barry, **grant** a 4-foot variance to the front yard setback regulations and a 1-foot variance to the side yard setback regulations, because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following 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: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 123-118

BUILDING OFFICIAL’S REPORT: Application of Greg Wingate, represented by Gary McMillen, for a special exception to the sign regulations at 12404 Park Central Drive. This property is more fully described as Lot 1, Block A/7730, and is zoned MU-3, which limits the number of detached signs on a premise to one per street frontage. The applicant proposes to construct and maintain an additional detached premise sign on a street frontage which will require a special exception to the sign regulations.

LOCATION: 12404 Park Central Drive

APPLICANT: Greg Wingate
Represented by Gary McMillen

REQUEST:

A special exception to the sign regulations is requested in conjunction with erecting and maintaining a detached premise sign along the site’s Park Central Drive street frontage on a site limited to one sign per street frontage on a site developed with an office (12404 Park Central).

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on a premise in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed use)
North: MU-3 (Mixed use)
South: MU-3 (Mixed use)
East: MU-3 (Mixed use)
West: R-10(A) (Single family residential)

Land Use:

The site is currently developed as an office (12404 Park Central). The areas to the north and east are developed with office uses; the area to the south is developed with vacant retail/restaurant use; and the area to the west appears to be developed as park/open space.

Zoning/BDA History:

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

Timeline:

- October 9, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 23, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- October 23, 2013: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

November 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, 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:

- The request focuses on erecting and maintaining an additional sign on the subject site, more specifically a detached premise sign to be along Park Central Drive on a site developed with an office (12404 Park Central).
- The Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways, and that one expressway sign is allowed for every 450 feet of frontage or fraction thereof on an expressway. (The subject site's frontage is not an expressway).
- The subject site located at the southeast corner of Churchill Lane and Park Central Drive is limited to one sign per street frontage.
- The submitted site plan indicates three signs on the property. The site plan notes one sign on Churchill Way; one sign near the intersection of Churchill Way and Park Central Drive; and one sign on Park Central Drive.
- The Building Inspection Senior Plans Examiner/Development Code Specialist has stated that the sign on this plan near the intersection of Churchill Way and Park Central Drive is technically the one sign the property is allowed to have by code along Park Central Drive, hence the request for an additional sign along the approximately 459 feet of frontage of Park Central Drive near the southern edge of the site.
- The submitted site plan notes among other things beyond the location of the signs that "all other signs, both temporary and non conforming on these two road frontages to be removed."
- A sign elevation has been submitted of a cabinet sign to be about 3.5' tall and about 6' in length.
- The applicant has the burden of proof in establishing the following:
 - That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the Park Central Drive street frontage) will result in substantial financial hardship or inequity to the

applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

- If the Board were to approve the request for a special exception to the sign regulations, the Board may consider imposing a condition that the applicant complies with the submitted site plan and elevation. However, granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code other than allowing an additional sign on the subject site.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

APPEARING IN FAVOR: Greg Wingate, 12404 Park Central, Dallas, TX
Janice Cameron, 5080 Spectrum Drive, #115E, Addison, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 123-118** suspend the rules and accept the evidence that is being presented today.

SECONDED: Beikman

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MOTION #2: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 123-118**, on application of Greg Wingate, **grant** a special exception to allow an additional detached premise sign, because our evaluation of the property and the testimony shows that strict compliance with the provisions of Article VII of the Dallas Development Code will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the City of Dallas and its citizens in accomplishing the objectives of that article. 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 and elevation is required.

SECONDED: Schulte

AYES: 4 – Richardson, Coulter, Carreon, Schulte

NAYS: 1 – Beikman

MOTION PASSED: 4– 1

FILE NUMBER: BDA 123-120

BUILDING OFFICIAL'S REPORT: Application of Benjamin Setnick, represented by R. Mathew Molash, to appeal the decision of the administrative official at 7260 E. Mockingbird Lane. This property is more fully described as Lot 1, Block A/4404, and is zoned R-1/2ac(A), which per Section 51A-4.209(b)(3.1) states that a handicapped group dwelling unit when located at least 1,000 feet from group residential facilities and all other licensed handicapped group dwelling units (as defined in this chapter), is allowed by right in the following districts: agricultural, single family, duplex, townhouse, CH, MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), MH(A), GO(A), central area, MU-1, and MU-1(SAH) districts; otherwise, by SUP only. The applicant proposes to appeal the decision of an administrative official that a handicapped group dwelling unit is allowed by right at 7260 E. Mockingbird Lane.

LOCATION: 7260 E. Mockingbird Lane

APPLICANT: Benjamin Setnick
Represented by R. Mathew Molash

REQUEST:

The submitted application states that the applicant is appealing: 1) the spacing determination made under 51A-4.209; 2) the determination that property owner is not required to obtain an SUP to use the property at 7260 East Mockingbird as a handicap group dwelling unit; and 3) the permits issued permitting work for a handicap group dwelling unit.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

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

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

October 10, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 23, 2013: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the October 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

October 24 &

November 1, 2013: The Board Administrator responded to the applicant's representative request to delay the application until December by stating that the application must remain scheduled with Board of Adjustment Panel C (the board panel that it was randomly assigned to last week) and that the application would remain on their November 18th public hearing docket; that he (or someone that he designates to speak on your behalf) may request that the Board delay action on the application at the November 18th public hearing; and that the Board will have the option at the November 18th hearing to: 1) delay action on the application, 2) deny the application, or 3) grant the application.

November 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, 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.

November 6, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report on this application to the Board Administrator (see Attachment A).

November 6, 2013: The Sustainable Development and Construction Department Current Planning Interim Assistant Director forwarded additional materials on this application to the Board Administrator (see Attachment B).

November 7, 2013: The Board Administrator emailed the applicant's representative Attachments A and B).

November 8, 2013: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment C).

GENERAL FACTS/STAFF ANALYSIS:

The board shall have all the powers of the administrative official on the action appealed from. The board may in whole or in part affirm, reverse, or amend the decision of the official.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2013

APPEARING IN FAVOR: Matt Molash, 500 Main St., Ste. 800, Ft. Worth, TX

APPEARING IN OPPOSITION: No one

APPEARING FOR THE CITY: Jennifer Brissette, 1500 Marilla, 7DN, Dallas, TX

MOTION: Schulte

I move that the Board of Adjustment in Appeal No. **BDA No. 123-120** on application of Benjamin Setnick, after having fully reviewed the decision of the administrative official, and having evaluated the evidence and heard all of the testimony and facts, I move that

the Board of Adjustment **affirm** the decision of the administrative official and **deny** the relief requested by the applicant **with prejudice**.

SECONDED: **Beikman**

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

MOTION: **Coulter**

I move to adjourn this meeting.

SECONDED: **Schulte**

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

2:28 P. M. - Board Meeting adjourned for **November 18, 2013**.

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.