

**NOTICE FOR POSTING**  
**BOARD OF ADJUSTMENT, PANEL A**  
**TUESDAY, APRIL 19, 2005**

**Briefing: 10:30 A.M. L1FN CONFERENCE CENTER AUDITORIUM**  
**Public Hearing: 1:00 P.M. L1FN CONFERENCE CENTER AUDITORIUM**

**Purpose:** To take action on the attached agenda, which contains the following:

1. Zoning Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

**\*All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla,  
Dallas, Texas 75201**

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4-19-2005

BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, APRIL 19, 2005  
AGENDA

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BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM	10:30 A.M.
LUNCH		
PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM	1:00 P.M.

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**Steve Long, Board Administrator**  
**Donnie Moore, Chief Planner**

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**MISCELLANEOUS ITEMS**

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Approval of the <b>Tuesday, March 15, 2005</b> Board of Adjustment Public Hearing Minutes	M1
Approval of the <b>Wednesday, March 30, 2005</b> Board of Adjustment Public Hearing Minutes	M2
<b>REQUEST:</b> Of the Board of Adjustment to consider Amendments to Section 10 of the Board of Adjustment Working Rules of Procedure	M3

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**UNCONTESTED CASES**

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<b>BDA 045-158</b>	4800 Hatcher Street <b>REQUEST:</b> Application of Dallas Housing Authority represented by Karl A Crawley for a variance to the front yard setback regulations, and a special exception to the off street parking regulations	1
<b>BDA 045-170</b>	3114 Culver Street <b>REQUEST:</b> Application of Pete Martinez for a special exception to the side yard setback regulations	2
<b>BDA 045-174</b>	6726 Meadow Lake Avenue <b>REQUEST:</b> Application of Allen M. and Christine M. Stewart represented by Zone Systems Inc. for a special exception to allow an additional dwelling unit	3

<b>BDA 045-176</b>	6011 Lemmon Avenue <b>REQUEST:</b> Application of Lowe’s Home Centers Inc. represented by James W. Schnurr, Winstead Sechrest & Minick P.C., for a special exception to the parking regulations	4
<b>BDA 045-182</b>	5806 Velasco Avenue <b>REQUEST:</b> Application of Alicia Butler for a special exception to allow an additional dwelling unit	5

## EXECUTIVE SESSION NOTICE

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

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

**(Rev. 6-24-02)**

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A March 15, 2005 public hearing minutes.

**MISCELLANEOUS ITEM NO. 2**

To approve the Board of Adjustment Panel A March 30, 2005 public hearing minutes.

**MISCELLANEOUS ITEM NO. 3**

**FILE NUMBER:** N/A

**REQUEST:** Of the Board of Adjustment to consider amendments to Section 10 of the Board of Adjustment Working Rules of Procedure

**GENERAL FACTS:**

- On April 1, 2005, Panels A, B, and C of the Board of Adjustment held a special meeting where the Assistant City Attorney to the Board presented several legal points and parameters to the board members as points of information and for discussion purposes.
- The board members discussed the possibility of amending their "Working Rules of Procedure" whereby a provision would be added to Section 10. Public Hearings (see Attachment A). Members expressed what appeared to be consensual interest in considering the addition of a provision to this section that would provide specific measures and guidelines pertaining to documents that would be submitted to them at the briefing and/or public hearing (after monthly dockets had been mailed).
- The Board of Adjustment Chair directed staff to prepare language to be placed on the upcoming Panel A, B, and C's April Miscellaneous Dockets whereby each panel could consider devising and adopting amendments to this section of the Working Rules of Procedure.
- The Assistant City Attorney prepared a draft amendment to the rules in response to the board's request that would amend/add the "Public Hearing" section to the board's rules, an amendment specifically pertaining to "documentary evidence" (see Attachment B).
- In terms of procedure, any amendment to the draft document prepared by the Assistant City Attorney would be so noted by staff at each panel meeting held in April, with an incorporation of all comments/amendments/recommendations made by each panel consolidated and presented for each panel's final consideration in May of 2005.

**FILE NUMBER:** BDA 045-158

**BUILDING OFFICIAL'S REPORT:**

Application of Dallas Housing Authority represented by Karl A Crawley for a variance to the front yard setback regulations, and a special exception to the off street parking regulations at 4800 Hatcher Street. This property is more fully described as Lot 1 in City Block A/2396 and is zoned PD 595 MF- 1(A) which requires a 15 foot front yard setback, and parking to be provided for new construction. The applicant proposes to construct a multifamily dwelling and provide a 1 foot front yard setback, and 130 of the required 172 parking spaces. This would require a variance of 14 feet to the front yard setback regulations and a special exception of 42 spaces to the off street parking regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions and variances.

**LOCATION:** 4800 Hatcher Street

**APPLICANT:** Dallas Housing Authority  
Represented by Karl A Crawley

**REQUESTS:**

- The following appeals have been made within this application:
  1. A variance to the front yard setback regulations of 13 feet\* is requested in conjunction with constructing 5 of 15 multifamily structures in the Lyons Street 15' front yard setback; and
  2. A special exception to the off-street parking regulations of 42 spaces is requested in conjunction with providing 130 (or 75%) of the total 172 off-street parking spaces that are required for a 76-unit townhouse development.
- \* Although the "Building Official's Report" indicates that the applicant is proposing to provide a 1' setback which would require a 14' variance, the applicant's representative has stated that the submitted site plan indicates the provision of a 2' setback which would require a 13' variance.

**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 ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

**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 already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 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.

- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
  - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**GENERAL FACTS (related to the front yard variance request):**

- The site is flat, irregular in shape (generally 600' on the north, 900 feet on the southeast, and 600' on the west), and approximately 5 acres in area.
- A 15'-front yard setback is required in the PD No. 595 (MF-1(A) Subdistrict) zoning district.
- The Dallas Development Code states that the front yard setback is measured from the front lot line of the building site or the required right-of-way as determined by the thoroughfare plan for all thoroughfares, whichever creates the greater setback.
- Five of the proposed 15 structures are proposed to be located 2' from the site's right-of-way line along Lyons Street. Approximately 13' of area lies between this right-of-way line and the Lyons Street front property line.
- Although the City has dedicated 13' along Lyons Street for right-of-way, there are no plans to widen this portion of the street according to a Public Works Transportation Planner.
- The applicant's representative submitted information beyond what was submitted with the original application. This information was a letter that further explained the scope and merits of the request (see Attachment A).
- The applicant's representative has stated that the site was previously developed with multifamily units with a reduced setback on Lyons Street.

**GENERAL FACTS (related to the parking special exception request):**

- The Dallas Development Code requires that 1 space is provided for every 500 feet of floor area. In this case, the building area on the 5.1 acre site is 85,834 square feet, hence a parking requirement of 172 off-street parking spaces.
- 130 of the required 172 off-street parking spaces are proposed to be provided on the site, or 1.5 parking spaces per each of the 76 units.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment B). This information included the following:
  - A letter that further details the scope and merits of the request; and
  - A table showing a parking survey for Roseland Homes in 2003 that the applicant contends is a similar type proposal as to that on the subject site.

**BACKGROUND INFORMATION:**

## **Zoning:**

<u>Site:</u>	PD No. 595 (MF-1) (Planned Development District 595, Multifamily Subdistrict)
<u>North:</u>	PD No. 595 (MF-1) (Planned Development District 595, Multifamily Subdistrict)
<u>South:</u>	PD No. 595 (NC) (Planned Development District 595, Neigh. Commercial Subdistrict)
<u>East:</u>	PD No. 595 (MF-1) (Planned Development District 595, Multifamily Subdistrict)
<u>West:</u>	PD No. 595 (R-5) (Planned Development District 595, Single family Subdistrict)

## **Land Use:**

The subject site is undeveloped. The area to the north is undeveloped; the area to the east is developed with multifamily use; the area to the south is developed with commercial/retail use; and the area to the west is developed as a public park (The J.J. Craft Park).

## **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:**

January 27, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 18, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the requests;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and

testimony presented to them by the applicant and all other interested parties.

- February 25, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).
- March 1, 2005: The applicant's representative requested that the front yard variance request be postponed from Panel A's March 15<sup>th</sup> public hearing until Panel A's April 19<sup>th</sup> public hearing in order to determine if the applicant needed a request concerning parking.
- March 17, 2005 The applicant's representative submitted a revised application that added a request for a parking special exception to the originally submitted front yard variance request.
- March 17, 2005: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
  - that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
  - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 26, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment B).
- March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

A review comment sheet was submitted by the Development Services Transportation Engineer in conjunction with this application. The engineer commented that he has no objections to the 24.5% special exception request if certain conditions are met. The engineer listed the following conditions:

1. Elimination of 4 illegally proposed head-in parking spaces on the proposed (public street) is required.
2. Relocation of the proposed driveway on Lyons Street further away from Hatcher Street is required.

**STAFF ANALYSIS (regarding the front yard variance request):**

- The site is flat, irregular in shape (generally 600' on the north, 900 feet on the southeast, and 600' on the west), and approximately 5 acres in area.
- Although proposed structures would technically provide a 2' setback, these structures in the front yard setback would be located 2' away from required right of way line on Lyons Street where there is an additional 13' of land between the required right of way line and the front property line. As a result, there would be a 15' distance between the nearest proposed structures and the Lyons Street front property line, and, according to the submitted site plan, and an approximate 20' distance between the nearest structures and the existing curb line.
- The submitted plat map indicates that Lyons Street has 30' of right of way.
- The submitted site plan indicates that there is an additional 13' of the subject site allocated for additional right of way.
- A Public Works Transportation Planner states that there are no plans to widen Lyons Street.
- Granting this front yard variance request, subject to the submitted site plan, would allow the site to be developed with structures encroaching into the Lyons Street front yard setback at distances from the curb line, front property line, and right of way lines detailed above.
- According to the applicant's representative, the only other building within the effected blockface along Lyons Street is owned by the same developer as that of the subject site: the Dallas Housing Authority.

**STAFF ANALYSIS (regarding the parking special exception request):**

- 76 percent of the required off-street parking spaces are proposed to be provided in conjunction with developing 76 townhomes on the site.
- There are several DART routes in the nearby area and, according to the applicant, all bus routes will eventually feed into a light rail station at Hatcher Street and Scyene Road.
- Granting this request, subject to the condition that the special exception automatically and special exception automatically and immediately terminates if and when the multifamily use on the site is changed or discontinued, would allow, according to the applicant, redevelopment of the site with the same number of units – a previous multifamily development on the site that did not create a traffic/parking problem.

- The Development Services Transportation Engineer has indicated that he has no objections to the 24.5% special exception request if certain conditions are met. The engineer listed the following conditions:
  1. Elimination of 4 illegally proposed head-in parking spaces on the proposed (public street) is required.
  2. Relocation of the proposed driveway on Lyons Street further away from Hatcher Street is required.

**FILE NUMBER:** BDA 045-170

**BUILDING OFFICIAL'S REPORT:**

Application of Pete Martinez for a special exception to the side yard setback regulations at 3114 Culver Street. This property is more fully described as Lot 23 in City Block H/2108 and is zoned R-7.5(A) which requires a 5 foot side yard setback. The applicant proposes to maintain a carport and provide a 0 foot setback which would require a special exception of 5 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 3114 Culver Street

**APPLICANT:** Pete Martinez

**REQUEST:**

- A special exception to the side yard setback regulations of 5' is requested in conjunction with maintaining a carport on a site developed with a single family home.

**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).

**GENERAL FACTS:**

- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The existing carport is located on the site's eastern side property line.
- The existing carport has the following characteristics:
  - 56' x 13.5' (or 756 square feet) in area
  - one-vehicle-wide, three-vehicles-long

- constructed of metal materials
- 8' in height
- The subject site is 150' x 50' (or 7,500 square feet) in area.
- According to DCAD, the site is developed with a single family home in average condition built in 1927 with 1,317 square feet of living area, and a 100 square foot storage building.
- Building Inspection states that no permit was issued by the City for the existing carport on this site.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

- |   |   |
|---|---|
| <p>1. BDA 978-217, 3119 Culver Street (the lot immediately northeast of the subject site)</p> | <p>On August 25, 1998, the Board of Adjustment Panel A granted a request for a special exception of 5' requested in conjunction with maintaining an approximately 900 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.</p> |
|---|---|

**Timeline:**

- |                        |   |
|------------------------|---|
| <p>Undated</p>         | <p>The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.</p> |
| <p>March 17, 2005:</p> | <p>The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.</p>  |



- March 17, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
  - that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
  - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

### **STAFF ANALYSIS:**

- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the side yard with a specific basis for this type of appeal. (Note that the Dallas Development Code does not provide a definition of "carport" however, Building Inspection interprets a "carport" to be a structure that would cover a vehicle and be open on at least one side. Building Inspection has recently been interpreting what would appear to a layperson to be a garage without a garage door as a "carport").
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the side yard setback with a different basis for appeal than that of *special exceptions for carports* in the side yard setback.

- The Dallas Development Code specifies that no side yard setback is required in residential districts for “a structure accessory to a residential use if the structure does not exceed 15 feet in height; and is located in the rear 30 percent of the lot.” In this case, the special exception is required since:
  1. The “carport” structure can not be deemed “a structure accessory to a residential use” since it is attached to the main structure.
  2. Even if the “carport” structure was detached from the main structure and could be deemed “a structure accessory to a residential use,” it is not located in the rear 30 percent of the 150’-long lot.
- Several other carports were identified on the block in the field visit conducted by the Board Administrator. One carport in a side yard setback is located immediately west of the site; and two other carports in side yard setbacks are located immediately north of the site. (Only one of these existing carports has history with going to the Board of Adjustment).
- Granting this special exception would allow the carport to remain in its current location which is on the side property line (or 5’ into the required 5’ side yard setback).
- The applicant has submitted a petition from neighbors/owners who support the request. (This petition has been included in the case report).
- Historically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport’s location in the side yard setback; would require the carport in the side yard setback to be retained in its current design, materials, and configuration; and would require the applicant to mitigate any water drainage related issues that the carport may cause on the lot immediately adjacent:
  1. Compliance with the submitted site plan and elevation is required.
  2. The carport structure must remain open at all times.
  3. There is no lot-to-lot drainage in conjunction with this proposal.
  4. All applicable building permits are obtained.

**FILE NUMBER:** BDA 045-174

**BUILDING OFFICIAL'S REPORT:**

Application of Allen M. and Christine M. Stewart represented by Zone Systems Inc. for a special exception to allow an additional dwelling unit at 6726 Meadow Lake Avenue. This property is more fully described as Lot 11C in City Block B/2978 and is zoned R 7.5 (A) which limits the property to one dwelling unit per lot. The applicant proposes to construct an additional dwelling unit would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 6726 Meadow Lake Avenue

**APPLICANT:** Allen M. and Christine M. Stewart  
Represented by Zone Systems Inc.

**REQUEST:**

- A special exception to the single family use regulations is requested in conjunction with constructing an additional "dwelling unit" on a site developed with a single family home. The proposed additional "dwelling unit" in this appeal is a 1-story "pool house addition" structure.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT IN A SINGLE FAMILY ZONING DISTRICT:**

The board may grant a special exception within the single family use regulations to authorize an additional dwelling unit in any single family zoning district when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**GENERAL FACTS:**

- "Single family" use is defined in the Dallas Development Code as "one dwelling unit located on a lot," however, the code allows the Board of Adjustment to grant a special exception to this provision to allow an additional dwelling unit when, in their opinion, the additional dwelling unit will not:
  - 1) be used as rental accommodations; or
  - 2) adversely affect neighboring properties.

- The subject site is 0.7 acre site and developed with, according to DCAD records, the following:
  - a single family home that is in good condition, built in 1995 with 5,272 square feet of living area; and
  - a 600 square foot attached garage.
- The site plan indicates that the additional “dwelling unit” structure has a building footprint of approximately 43’ x 42’ or is about 1,800 square feet in area.
- The site plan indicates that the additional “dwelling unit” structure will be located 15’ from the nearest property line which in this case is the side property line on the south.
- The submitted floor plan indicates the following spaces within the proposed “dwelling unit” structure on the site: a playroom, pool bar, exercise room, storage room, bath, and screened porch. No elevation has been submitted with the application.
- The applicant’s representative submitted an elevation of the structure on March 28, 2005 (see Attachment A). The elevation indicates that the structure will be approximately 20’ in height.
- The Dallas Development Code defines “dwelling unit” as “one or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping conditions.”
- The Dallas Development Code defines “family” as “individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.”
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot.”
- The Board of Adjustment has seen an increased number in special exceptions for additional dwelling units since November of 2004. This increase is most likely somewhat attributable to a memo that the Building Official wrote to city plan reviewers in September in 2004 (see Attachment B). This memo requested that plan reviewers carefully review applications for an addition or accessory structure on a lot zoned single family with regard for compliance with code-provisions related to the definitions of “dwelling unit,” “family,” and “single family.”
- Currently the City of Dallas is in the process of considering an amendment to the Development Code with regard to provisions related to single family accessory structures which are at times being interpreted as additional dwelling unit structures by Building Inspection due to a recent change in policy. Any official amendment to the Dallas Development Code would be made by the City Council.
- If this request is granted, a completed deed restriction stating that the additional dwelling unit on the site will not be used for rental accommodations must be submitted to the Board Administrator, approved by the City Attorney’s Office as to form, and filed in the deed records of the applicable county (in this case, Dallas County) before the applicable permits for this additional dwelling unit can be issued by the City.

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

**Land Use:**

The subject site is developed with a single family home. The areas to the north, east, south 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:**

February 18, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 17, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 28, 2005: The applicant's representative submitted an elevation of the proposed "pool house addition" structure (see Attachment A).

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The proposed “dwelling unit” structure meets all setback, lot coverage, and height regulations.
- As of April 5, 2005, no letters in support or in opposition to this request had been submitted to staff.
- If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and site plan, the “dwelling unit” structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 1-story “pool house addition” structure.
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**FILE NUMBER:** BDA 045-176

**BUILDING OFFICIAL'S REPORT:**

Application of Lowe's Home Centers Inc. represented by James W. Schnurr, Winstead Sechrest & Minick P.C., for a special exception to the parking regulations at 6011 Lemmon Avenue. This property more fully described as Lot 3 in City Block 5716 and is zoned IR which requires parking to be provided for a retail use. The applicant proposes to construct a building and provide 500 spaces of the required 651 which would require a special exception of 151 parking spaces. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 6011 Lemmon Avenue

**APPLICANT:** Winstead Sechrest & Minick P.C.  
Represented by James W. Schnurr

**REQUEST:**

- A special exception to the off-street parking regulations of 151 spaces is requested in conjunction constructing a new 146,000 square foot "home improvement center" retail use (Lowe's Home Improvement Center) on a site developed with a vacant office/warehouse use (CocaCola Bottling Company).

**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 already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 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.
  - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
    - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
    - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**GENERAL FACTS:**

- The Dallas Development Code requires that the following parking requirement for a “home improvement center, lumber, brick or building materials sales yard” use:
  - 1 space per 200 square feet of retail floor area plus
  - 1 space per 1,000 square feet of site area exclusive of parking area.
- The applicant is proposing to provide 500 (or 77%) of the total 651 required off-street parking spaces.
- The applicant's representative has submitted a parking study for a Lowe's Home Center in southeast Florida. (This parking study has been included in this case report).
- On April 8, 2005, the applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included a parking study showing parking counts of six area Lowe's Home Improvement Stores.



## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: IR (Industrial research)  
North: IR (Industrial research)  
South: PD No. 72 (Planned Development District 72)  
East: IR (Industrial research)  
West: IR (Industrial research)

### **Land Use:**

The subject site is developed with a vacant office/warehouse building (CocaCola Bottling Company). The area to the north is under development; and the areas to the east, south, and west are developed with commercial/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:**

February 25, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 22, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the requests;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and

testimony presented to them by the applicant and all other interested parties.

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

A review comment sheet was submitted by the Development Services Transportation Engineer in conjunction with this application on April 5, 2005. The engineer commented that he has recommends that this appeal be denied. The engineer stated that the submitted parking study was dated January 2002 and dealt with out-of-state locations, and hat a study of two local (Dallas area) home improvement centers was requested.

On April 8, 2005, the Development Services Transportation Engineer contacted the Board Administrator to rescind his previous opposition to the request given a parking study that he had been forwarded by the applicant's representative. The engineer commented that a parking study was conducted on April 2, 2005 of 6 Lowe's located in the cities of Dallas and Plano. The study showed that the parking occupancy rate was very low at these locations.

April 8, 2005: The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included a parking study showing parking counts of six area Lowe's Home Improvement Stores.

#### **STAFF ANALYSIS:**

- 77 percent of the required off-street parking spaces are proposed to be provided in conjunction with developing a home improvement center retail use on the site.
- Granting this request, subject to the condition that the special exception automatically and special exception automatically and immediately terminates if and when the home improvement center retail use on the site is changed or discontinued, would allow the development of this site with a new 146,000 square foot "home improvement center" retail use.
- Originally, the Development Services Transportation Engineer had recommended that this appeal be denied. The engineer had stated that the submitted parking study was dated January 2002 and dealt with out-of-state locations, and that a study of two local (Dallas area) home improvement centers had been requested. However on

April 8, 2005, the Development Services Transportation Engineer contacted the Board Administrator to rescind his previous opposition to the request given a parking study that he had been forwarded by the applicant's representative. The engineer commented that a parking study was conducted on April 2, 2005 of 6 Lowe's located in the cities of Dallas and Plano. The study showed that the parking occupancy rate was very low at these locations.

**FILE NUMBER:** BDA 045-182

**BUILDING OFFICIAL'S REPORT:**

Application of Alicia Butler for a special exception to allow an additional dwelling unit at 5806 Velasco Avenue. This property is more fully described as Lot 2 in City Block 7/1887 and is zoned Conservation District 12 which limits the property to one dwelling unit per lot. The applicant proposes to construct an additional dwelling unit which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 5806 Velasco Avenue

**APPLICANT:** Alicia Butler

**REQUEST:**

- A special exception to the single family use regulations is requested in conjunction with constructing an additional "dwelling unit" on a site developed with a single family home. The proposed additional "dwelling unit" in this appeal is a 2-story garage/"studio/office" structure.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT IN A SINGLE FAMILY ZONING DISTRICT:**

The board may grant a special exception within the single family use regulations to authorize an additional dwelling unit in any single family zoning district when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**GENERAL FACTS:**

- "Single family" use is defined in the Dallas Development Code as "one dwelling unit located on a lot," however, the code allows the Board of Adjustment to grant a special exception to this provision to allow an additional dwelling unit when, in their opinion, the additional dwelling unit will not:
  - 1) be used as rental accommodations; or
  - 2) adversely affect neighboring properties.
- The subject site is 162' x 50' (or 8,100 square feet in area) and developed with, according to DCAD records, the following:

- a single family home that is in good condition, built in 1920 with 1,506 square feet of living area; and
- a 320 square attached carport.
- The site plan indicates that the additional “dwelling unit” structure has a building footprint of approximately 28’ x 22’ or is about 616 square feet in area.
- The site plan indicates that the additional “dwelling unit” structure will be located 3’ from the nearest property line which in this case is the side property line on the west.
- The submitted elevation indicates that the 2-story additional “dwelling unit” structure will be approximately 22’ in height.
- Floor plans indicate the following spaces within the proposed detached 2-story additional “dwelling unit” structure on the site:
  - a 2-car garage, workshop, and porch on 1<sup>st</sup> floor; and
  - an office, storage room, studio, and bath on the 2<sup>nd</sup> floor.
- The Dallas Development Code defines “dwelling unit” as “one or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping conditions.”
- The Dallas Development Code defines “family” as “individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.”
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot.”
- The Board of Adjustment has seen an increased number in special exceptions for additional dwelling units since November of 2004. This increase is most likely somewhat attributable to a memo that the Building Official wrote to city plan reviewers in September in 2004 (see Attachment A). This memo requested that plan reviewers carefully review applications for an addition or accessory structure on a lot zoned single family with regard for compliance with code-provisions related to the definitions of “dwelling unit,” “ family,” and “single family.”
- Currently the City of Dallas is in the process of considering an amendment to the Development Code with regard to provisions related to single family accessory structures which are at times being interpreted as additional dwelling unit structures by Building Inspection due to a recent change in policy. Any official amendment to the Dallas Development Code would be made by the City Council.
- If this request is granted, a completed deed restriction stating that the additional dwelling unit on the site will not be used for rental accommodations must be submitted to the Board Administrator, approved by the City Attorney’s Office as to form, and filed in the deed records of the applicable county (in this case, Dallas County) before the applicable permits for this additional dwelling unit can be issued by the City.

## **BACKGROUND INFORMATION:**

### **Zoning:**

**Site:** CD No. 12 (Conservation District No. 12)  
**North:** CD No. 12 (Conservation District No. 12)  
**South:** CD No. 12 (Conservation District No. 12)

East: CD No. 12 (Conservation District No. 12)  
West: CD No. 12 (Conservation District No. 12)

**Land Use:**

The subject site is developed with a single family home. The areas to the north, east, south 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:**

- March 4, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 18, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
  - that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
  - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the

Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The proposed 2-story “dwelling unit” structure meets all setback, lot coverage, and height regulations.
- A field visit of the site and surrounding areas shows that there are several properties in the immediate area with 2-story detached accessory structures. There is no recorded history of any of these structures going to the Board of Adjustment for special exceptions to allow an additional dwelling unit.
- As of April 5, 2005, no letters in support or in opposition to this request had been submitted to staff.
- If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and site plan, the proposed “dwelling unit” structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 2-story garage/“office/studio” structure.
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.