

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL COUNCIL CHAMBERS
WEDNESDAY, January 22, 2020**

MEMBERS PRESENT AT BRIEFING: Michael Schwartz, chair, Scott Housel, regular member, Matthew Vermillion, regular member, Damian Williams, regular member and Jared Slade, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Michael Schwartz, chair, Scott Housel, regular member, Matthew Vermillion, regular member, Damian Williams, regular member and Jared Slade, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Sarah May, Interim Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Elaine Hill, Acting Board Secretary and LaTonia Jackson, Board Secretary

STAFF PRESENT AT HEARING: Sarah May, Interim Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Elaine Hill, Acting Board Secretary and LaTonia Jackson, Board Secretary

11:09 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 20, 2020 docket.**

BOARD OF ADJUSTMENT ACTION: January 22, 2020

1:11 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

Panel B, November 20, 2019 public hearing minutes were approved without a formal vote.

FILE NUMBER: BDA189-134(SM)

BUILDING OFFICIAL'S REPORT: Application of Christina Roa, represented by Dustin Smith, for a variance to the front yard setback regulations at 11021 Royalshire Drive. This property is more fully described as Lot 4, Block 3/5500, and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct and/or maintain a structure and provide a 10-foot front yard setback along Royalshire Drive and Rex Drive, which requires two 25-foot variances to the front yard setback regulations.

LOCATION: 11021 Royalshire Drive

APPLICANT: Christina Roa
Represented by Dustin Smith

REQUEST:

A request for a variance to the front yard setback regulations of 10 feet is made to construct a two-story single family structure with a total 5,600 square feet of floor area, an attached carport, and an attached three-car garage, which is proposed to be located 25 feet from both of the site's two front property lines or 10 feet into the 35-foot front yard setbacks on Royalshire Drive and Rex Drive on an undeveloped site.

STANDARD FOR A VARIANCE¹:

The applicant has the burden of proof in establishing the following standards have been met in consideration of granting the above request.

The board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses,

¹ Reference Section 51(A)-3.102(d)(10) of the Dallas Development Code.

height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

1. 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;
2. 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
3. not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that while the subject site is a relatively flat and rectangular, it is different from most lots in the R-16(A) zoning district in that it is more restrictive in developable area due to having two, 35-foot front yard setbacks when most lots in this zoning district have one 35-foot front yard setback and because the lot area is less than the minimum lot area required in the R-16(A) zoning district which requires a minimum lot area of 16,000 square feet.
- The applicant has also submitted a document (Attachment B) indicating that that the proposed 5,600-square-foot home is commensurate to 13 other homes in the same R-16(A) zoning district that have average home size of approximately 6,667 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family District)
North: R-16(A) (Single Family District)
East: R-16(A) (Single Family District)
South: R-16(A) (Single Family District)
West: R-16(A) (Single Family District)

Land Use:

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

Zoning/BDA History:

There have been two related board or zoning cases near the subject site within the last five years.

:

- 1. BDA 178-048, On June 20, 2018, the Board of Adjustment Panel C denied a
Property at 11021 request for a variance to the front yard setback regulations of
Royalshire Drive 25 feet without prejudice. The case report stated the request
(subject site) was made to construct and maintain a two-story single family
home structure with a total “slab area” of approximately 5,800
square feet or with a total “home size” of approximately 6,100
square feet, part of which was to be located 10 feet from one
of the site’s two front property lines (Rex Drive) or 25 feet into
this 35-foot front yard setback.

- 2. BDA 167-076, On August 14, 2017, the Board of Adjustment Panel C denied
Property at 6143 requests for variances to the front yard setback regulations
Royalton Drive made to construct and maintain a single-family structure in the
(Property located front yard setbacks on one of the site’s two front property lines
one block south of (Azalea Drive). The case report stated the request was made
subject site) to construct and maintain a single-family structure, part of
which would be located 14’ from the site’s front property line)
or 21’ into the 35’ front yard setback along Azalea Lane.

GENERAL FACTS /STAFF ANALYSIS:

The purpose of this request for a variance of 10 feet to the front yard setback requirements is to construct a 5,600-square-foot two-story single family structure, an attached carport, and an attached three-car garage, which are proposed to be located a minimum of 10 feet from both of the site’s two front property lines or 25 feet into the 35-foot front yard setback on Rex Drive on an undeveloped site.

The subject site is located at the southwest corner of Royalshire Drive and Rex Drive and is in an R-16(A) Single Family zoning district, which requires a minimum front yard setback of 35 feet and a minimum lot size of 16,000 square feet. Due to the orientation

of the of the lots on this block, the subject site has two front yard setbacks². First, because the site is a corner lot in a single-family district, the shorter frontage on Royalshire Drive is a front yard. Second, because there are other lots with front yards on the same block and on the south line of Rex Drive, the subject must also provide a front yard setback on Rex Drive.

Additionally, although the subject site is flat and rectangular in shape, it is also 15,800 square feet in area, according to the submitted application, which is less than the minimum lot size requirement in the R-16(A) zoning district which requires a minimum 16,000 square feet in lot area.

As of December 31, 2019, no letters have been submitted in support of or in opposition to the request.

If the board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which is a structure that would be located 25 feet from both the site’s front property lines or 10 feet into both 35-foot front yard setbacks.

TIMELINE:

October 2, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

December 9, 2019: The Interim Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the December 27th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:

- a copy of the application materials including the Building Official’s report on the application;
- the criteria/standard that the board will use in their decision to approve or deny the request; and

² Reference §51A-4.401(b)(1) of the Dallas Development Code for front yard provisions for residential districts.

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

December 20, 2019: The applicant’s representative submitted revised plans and a letter (see Attachments A and B).

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

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

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: Dustin Smith, 6463 Joyce Way, Dallas, TX
Chris Bowers, 4115 Rainsung Dr., Dallas, TX

APPEARING IN OPPOSITION: Chad Coben, 6142 Rex Dr., Dallas, TX
William Snyder, 4445 Alpha Rd., Dallas, TX
Suzanne Eades, 6231 Rex Rd., Dallas, TX

MOTION: Housel

I move that the Board of Adjustment, in Appeal No. BDA 189-134, on application of Christina Roa, represented by Dustin Smith, **deny** the variance to the front yard setback regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

SECONDED: Vermillion
AYES: 4 - Schwartz, Housel, Vermillion, Williams
NAYS: 1 - Slade
MOTION PASSED: 4 – 1

FILE NUMBER: BDA190-004(OA)

BUILDING OFFICIAL'S REPORT: Application of Gretchen Awalt, represented by Brad Williams of Winstead PC, for a special exception to the parking regulations at 1930 Hi Line Drive. This property is more fully described as part of Lot 5, Block 37/7888, and is zoned PD No. 621 (Subarea 1H), which requires parking to be provided. The applicant proposes to construct and/or maintain a mixed use residential and retail structure for a multifamily use, a restaurant without drive-in or drive-through service use, and a general merchandise or food store greater than 3,500 square feet use, and provide 1,014 of the required 1,329 parking spaces, which will require a 315-space special exception (23.7% reduction) to the parking regulations.

LOCATION: 1930 Hi Line Drive

APPLICANT: Gretcehn Awalt
Represented by Brad Williams of Winstead PC

REQUEST:

A request for a special exception to the off-street parking regulations of 315 spaces is made to construct a mixed-use development structure that will contain a total of 838 dwelling units, 5,514 square feet of restaurant, and 5,238 square feet of retail uses and provide 1,014 of the 1,329 required off-street parking spaces.

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

Section 51A-4.311 of the Dallas Development Code states the following:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta

credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 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;
 - (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
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 315 spaces shall automatically and immediately terminate if and when the multifamily, general merchandise or food store greater than 3,500 square feet, and restaurant without drive-in or drive-through service uses are changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated that he has no objections to this request.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 621 (Planned Development)
North: PD No. 621 (Planned Development)
East: PD No. 621 (Planned Development)
South: PD No. 621 (Planned Development)
West: PD No. 621 (Planned Development)

Land Use:

The subject site is proposed to be developed with a mixed-use development structure that will contain a total of 838 dwelling units, 5,514 square feet of restaurant, and 5,238 square feet of retail. The areas to the north and east are developed with the Trinity Trail; the area to the west and south are developed with a hotel, multifamily, and commercial parking lot uses.

BDA History:

There have not been any related board cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 315 spaces focuses on constructing a mixed-use development structure and providing 1,014 of the 1,329 required off-street parking spaces.
- PD No. 621 requires the following off-street parking requirement:
 - Multifamily: one and one-half spaces per dwelling unit;
 - Restaurant: one space per 105 square feet of floor area. No parking is required for outside seating up to 10 percent of the total floor area of the restaurant. Outside seating may not be converted to interior floor area unless the additional required parking is provided; and
 - General merchandise or food store greater than 3,500 square feet: one space per 275 square feet of floor area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed multifamily, restaurant, general merchandise or food store use does not warrant the number of off-street parking spaces required; and
 - The special exception of 315 spaces (or a 24-percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the board were to grant this request and impose the condition that the special exception of 315 spaces shall automatically and immediately terminate if and when the multifamily, general merchandise or food store greater than 3,500 square feet, and restaurant without drive-in or drive-through services uses are changed or discontinued.

Timeline:

October 24, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 17, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 26th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

December 30, 2019: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked “Has no objections” (Attachment A).

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 190-004, application of Gretchen Awalt, represented by Brad Williams of Winstead, PC, **grant** the request for a special exception to the parking regulations contained in the Dallas Development Code, subject to the following condition:

The special exception of 315 spaces shall automatically and immediately terminate if and when the multifamily, restaurant without drive-in or drive-through service, and general merchandise or food store 3,500 square feet or greater uses are changed or discontinued.

SECONDED: Vermillion

AYES: 5 - Schwartz, Housel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-007(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the fence height regulations at 8258 San Fernando Way. This property is more fully described as Lot 14, Block 9/5260, and is zoned PD No. 575 (Subarea 1), which limits the height of a fence in the front yard to four feet. The applicant proposes to construct and/or maintain a nine-foot four-inch high fence in a required front yard, which will require a five-foot four-inch special exception to the fence regulations.

LOCATION: 8258 San Fernando Way

APPLICANT: Rob Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the fence standards regulations related to height of five feet four inches is made to remodel, construct and maintain a four-foot rail metal fence with seven-foot two-inch high stone fence columns with decorative lighting, four-foot six-inch high metal posts and a nine-foot four-inch arbor in the required front yard on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

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

STAFF RECOMMENDATION:

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

Zoning:

Site: PD No. 575 (Subdistrict I) (Planned Development)
North: PD No. 575 (Subdistrict I) (Planned Development)
South: PD No. 575 (Subdistrict C) (Planned Development)
East: PD No. 575 (Subdistrict E) (Planned Development)
West: PD No. 575 (Subdistrict I) (Planned Development)

Land Use:

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

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the fence standards regulations related to height of five feet four inches focuses on constructing and maintaining a four-foot high rail medal fence with six-foot five-inch stone fence columns with decorative lighting, four-foot six-inch high metal posts and a nine-foot four-inch high arbor in the required front yard on a site developed with a single-family home.
- The property is located in PD No. 575 (Subdistrict I) zoning district which requires a minimum front yard setback of 80 feet.
- The subject site is located at the southwest corner of San Fernando Way and Breezewood Drive. This site has one front yard setback on San Fernando Way.
- Section 51A-4.602(a)(2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant submitted a site plan/elevation of the proposal in the front yard setbacks with notations indicating that the proposal reaches a maximum height of nine feet four inches.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 150 feet in length parallel to San Fernando Way and approximately 80 feet perpendicular to San Fernando Way on the northwest and the northeast sides of the site in this front yard setback.
 - The proposal is represented as being located approximately at the front property line or approximately 22 feet from the pavement line.

- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noted no other fences that appear to be above four feet in height located in a front yard setback.
- As of December 31, 2019, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of five feet four inches will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding four feet in height to be located in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

Timeline:

November 4, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

December 17, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 26th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board

Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

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

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm St. #4, Dallas, TX
Dennis Klembara, 8246 San Fernando Way
Dallas, TX

APPEARING IN OPPOSITION: Anita Childress, 8366 Santa Clara Dr, Dallas, TX

MOTION: Vermillion

I move that the Board of Adjustment, in Appeal No. BDA 190-007, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a nine-foot four-inch high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan/elevation is required.

SECONDED: Williams

AYES: 5 - Schwartz, Hounsel, Vermillion, Brooks, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-010(OA)

BUILDING OFFICIAL'S REPORT: Application of Jacqueline Jones for 1) a special exception to the single-family regulations, and variances to the 2) side and 3) rear yard setback regulations at 5528 Kiwanis Road. This property is more fully described as Lot 6, Block 10/8711, and is zoned PD No. 226, which 1) limits the number of dwelling units to one, 2) requires a rear yard setback of 10 feet, and 3) requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain 1) an additional dwelling

unit, which will require a special exception to the single family zoning use regulations; 2) provide a two-foot side yard setback, which will require an eight-foot variance to the side yard setback regulations; and 3) provide a seven-foot six-inch rear yard setback, which will require a two-foot six-inch variance to the rear yard setback regulations.

LOCATION: 5528 Kiwanis Road

APPLICANT: Jaqueline Jones

REQUESTS:

The following requests have been made on a site that is developed with a one-story main single-family home/dwelling unit structure:

1. A request for a special exception to the single-family use regulations is made to construct and maintain a non-rentable additional dwelling unit;
2. A request for a variance to the side yard setback regulations of eight feet is made to maintain an existing accessory structure which is located two feet from the west side property line or eight feet into this west 10-foot side yard setback.
3. A request for a variance to the rear yard setback regulations of two feet six inches is made to maintain an accessory structure seven feet six inches from the rear property line or up to two feet six inches into the required 10-foot rear yard setback.

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

Section 51-4.201(b)(1)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot 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 this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STANDARD FOR A VARIANCE:

Section 51(A)-3.102(d) (10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

STAFF RECOMMENDATION (single family regulations):

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

STAFF RECOMMENDATION (side yard and rear yard variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the PD No. 226 zoning district by its restrictive area due to being sloped and smaller in lot size that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD No. 226 zoning district.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed accessory structure on the subject site is commensurate to 27 other lots having one or more garage or accessory structures in the same PD No. 226 zoning district. Attachment A also notes the average lot size of 27 lots in this district is 28,819 square feet while the subject lot is only 14,025 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 226 (Planned Development District)
North: PD No. 226 (Planned Development District)
South: PD No. 226 (Planned Development District)
East: PD No. 226 (Planned Development District)

West: A(A) (Agricultural District) & R1/2ac(A) (Single Family District ½ acre)

Land Use:

The subject site is developed with a single-family structure. The area to the west is developed with agricultural and single family uses; the areas to the north, east, and south are developed with single family uses.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS (single family regulations):

- This request for a special exception to the single family use regulations focuses on maintaining an additional dwelling unit on a site developed with a one-story single-family home.
- The site is zoned PD No. 226 where the Dallas Development Code permits one dwelling unit per lot.
- PD No. 226 states that only uses allowed on the property are single family and related accessory uses. The placement of mobile homes on the property is prohibited.
- 51-4.201(b)(1)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot 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.
- The submitted site plan denotes the locations of two building footprints, the larger of the two is an existing single family structure and the smaller of the two is denoted as “garage/residence above existing garage”.
- This request centers on the function of what is proposed to be inside the smaller structure on the site – the “line of new second floor above existing garage” structure, specifically its collection of rooms/features shown on the floor plan.
- According to DCAD records, the “main improvement” for property addressed at 5528 Kiwanis Road is a structure built in 1986 with 1,761 square feet of total/living area with the following “additional improvements”: 420-square-foot brick veneer enclosed garage.
- According to the submitted site plan, the main structure contains 2,181 square feet and the accessory structure contains 774 square feet.

- If the board were to approve this request, the board may choose to impose a condition that the applicant complies with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).
- 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.
- If the Board were to grant this request, Building Inspection would view the structure denoted on the submitted site plan as “garage/residence” as an additional dwelling unit.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on maintaining an existing accessory structure two feet from the west side property line or eight feet into this west 10-foot side yard setback as shown on the submitted site plan.
- Structures on lots zoned PD No. 226 are required to provide a minimum side yard setback of 10 feet.
- It appears from the submitted site plan that approximately 40 percent of the accessory structure is located 10 inches in the site’s west 10-foot side yard setback.
- The subject site is sloped, smaller than the average lot within the PD No. 226, and according to DCAD is 14,837 square feet in area. The site is zoned PD No. 226 where lots are typically 28,819 square feet in area, according to Attachment A.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed accessory structure on the subject site is commensurate to 27 other lots having one or more garage or accessory structures in the same PD No. 226 zoning district. Attachment A also notes the average lot size of 27 lots in this district is 28,819 square feet while the subject lot is only 14,025 square feet.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 226 zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 226 zoning classification.
- If the board were to grant this side yard setback variance request and impose the submitted site plan as a condition, the structures in the side yard setbacks would be limited to what is shown on this document.

GENERAL FACTS/STAFF ANALYSIS (rear yard variance):

- This request focuses on maintaining an accessory structure seven feet six inches from the rear property line or up to two feet six inches into the required 10-foot rear yard setback.
- Structures on lots zoned PD No. 226 are required to provide a minimum side yard setback of 10 feet.
- A site plan has been submitted denoting an existing accessory structure seven feet six inches from the rear property line.
- It appears from the submitted site plan that approximately three percent of the accessory structure is located two feet six inches in the site's 10-foot rear yard setback.
- The subject site is sloped, smaller than the average lot within the PD No. 226, and, according to DCAD, is 14,837 square feet in area. The site is zoned PD No. 226 where lots are typically 18,169 square feet in area.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed accessory structure on the subject site is commensurate to 27 other lots having one or more garage or accessory structures in the same PD No. 226 zoning district. Attachment A also notes the average lot size of 27 lots in this district is 28,819 square feet while the subject lot is only 14,025 square feet.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 226 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 226 zoning classification.

- If the board were to grant this rear yard setback variance request and impose the submitted site plan as a condition, the structures in the rear yard setbacks would be limited to what is shown on this document.

Timeline:

November 11, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 18, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 26th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

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

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR:

Jacqueline Jones, 5528 Kiwanis Rd., Dallas, TX
Bob Jones, 1201 Glenhaven Dr., Abilene, TX
Elliott Loviolette, 7130 Water Supply Rd.,
Temple, TX

APPEARING IN OPPOSITION:

Frank Bracken, 5717 Kiwanis Rd., Dallas, TX
Sharon Wilkins, 5610 Pleasant Ridge Rd.,
Dallas, TX
Stoshko Star, 5428 Kiwanis Rd., Dallas, TX
Brittany Wilkins, 5610 Pleasant Ridge Dr.,
Dallas, TX

MOTION 1 of 3: Williams

I move that the Board of Adjustment, in request No. BDA 190-010 on application of Jacqueline Jones, **grant** the request to construct and maintain an additional dwelling unit on a site developed with a single family structure and use as a special exception to the single family use regulations requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not be used as rental accommodations, and will not adversely affect neighboring properties.

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

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

SECONDED: Slade

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION 2 of 3: Williams

I move that the Board of Adjustment, in Appeal No. BDA 190-010, on application of Jacqueline Jones, **grant** the eight-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: Vermillion

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION 3 of 3: Williams

I move that the Board of Adjustment, in Appeal No. BDA 190-010, on application of Jacqueline Jones, **grant** the two-foot six-inch variance to the rear yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: Slade

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-011(SM)

BUILDING OFFICIAL’S REPORT: Application of Will Strickler for a special exception to the fence height regulations at 7302 Fisher Road. This property is more fully described as Lot 1, Block A/2998, and is zoned R-1ac(A), which limits the height of a fence in the front yard to four feet. The applicant proposes to construct and/or maintain a six-foot high fence in a required front yard, which will require a two-foot special exception to the fence regulations.

LOCATION: 7302 Fisher Road

APPLICANT: Will Strickler

REQUESTS:

A request for a special exception to the fence height regulations of two feet is made to construct a fence with a maximum height of six feet in the required 40-foot front yards on Fisher Road and Dalgreen Road on a site being developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-1ac(A) (Single Family District)
<u>Northeast:</u>	R-1ac(A) (Single Family District)
<u>Southeast:</u>	R-1ac(A) (Single Family District)
<u>Southwest:</u>	R-16(A) (Single Family District)
<u>Northwest:</u>	R-1ac(A) (Single Family District)

Land Use:

The subject site is being 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 have been no recent related board or zoning cases recorded in the vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence height standards is to construct a fence with a maximum height of six feet within both the required 40-foot front yards on Fisher Road and Dalgreen Road on a site being developed with a single-family home. The proposed fence consists of five-foot tall tubular steel picket fence panels with six-foot tall masonry columns, two five-foot tall tubular steel picket vehicular gates, and one five-foot tall tubular steel picket pedestrian gate as shown on the submitted site plan and fence elevation. The majority of the fence is proposed to be

located approximately at the front property lines or approximately 10 feet from the Dalgreen Road pavement line and approximately 25 feet from the Fisher Road pavement line.

Section 51A-4.602(a)(2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned R-1ac(A) which requires a 40-foot front yard setback.

Staff conducted a field visit of the site and surrounding area and noted several other fences along Fisher Road and Dalgreen Road are located in front yard setback and appeared to be above four feet in height.

As of December 31, 2019, no letters had been submitted in opposition to the requests for special exceptions to the fence standards regulations. The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height regulation of two feet will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding four feet in height in the front yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

November 13, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

December 9, 2019: The Interim Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the December 27th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:

- a copy of the application materials including the Building Official’s report on the application;

- 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.”

December 26, 2019: The applicant submitted a letter to the board with eight letters of support he received from neighbors (see Attachment A).

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

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

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 190-011, application of Will Strickler, **grant** the request for a special exception to the fence height regulations contained in the Dallas Development Code, subject to the following condition:

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

SECONDED: Vermillion

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-012(OA)

BUILDING OFFICIAL'S REPORT: Application of Juan Carlos Guerrero, represented by Elias Rodriguez of Construction Concepts Inc., for special exceptions to the fence height regulations and visual obstruction regulations at 3230 Edd Road. This property is more fully described as Lot 3, Block 1/8782, and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to four feet and requires a 20-foot visibility triangle at the intersections of streets and driveway approaches. The applicant proposes to construct and/or maintain a 10-foot 6-inch high fence in a required front yard, which will require a six-foot six-inch special exception to the fence regulations, and to construct and/or maintain items in a visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 3230 Edd Road

APPLICANT: Juan Carlos Guerrero
Represented by Elias Rodriguez of Construction Concepts Inc.

REQUESTS:

The following requests have been made on a site that is being developed with a single family home:

1. A request for a special exception to the fence standards regulations related to the fence height of six feet and six inches is made to construct and maintain a four-foot six-inch high tubular metal fence with stone columns that vary in height from five to 10 feet with a nine-foot tall wood/metal gate in the required front yard on a site developed with a single-family home.
2. A request for special exceptions to the visual obstruction regulations are made to locate and maintain portions of the aforementioned metal fence, stone columns, and a wood/metal gate in the two 20-foot visibility triangles on both sides of the drive approach at the intersection with Edd Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d) (3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (fence standards regulations):

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

STAFF RECOMMENDATION (visual obstruction regulations):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan and elevation is required.
2. The site must comply with city driveway width standards.

Rationale:

- The Sustainable Development Department Senior Engineer has no objections to the requests if the aforementioned conditions are imposed as part of the requests.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be granted (with the suggested conditions imposed) because the items to be located and maintained in the visibility triangles do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2ac(A) (Single family district ½ acre)
North: A(A) (Agricultural District)
East: R-1/2ac(A) (Single family district ½ acre)
South: R-1/2ac(A) (Single family district ½ acre)
West: R-1/2ac(A) (Single family district ½ acre)

Land Use:

The subject site is being 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 have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS (fence standards special exceptions):

- The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on constructing a four-foot six-inch high tubular metal fence with stone columns that vary in height from five to 10 feet and a nine-foot tall wood/metal gate in site's front yard.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The subject site is zoned R-1/2ac(A) which requires a 40-foot front yard setback.
- The applicant has submitted a site plan and elevation of the proposal. The site plan and elevation represent a fence that is over four feet in height in the required front yard on a site developed with a single-family home.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 140 feet in length parallel to the street and approximately 40 feet perpendicular to this street on the sides in this required front yard, located on the front property line or approximately 12 feet from the pavement line.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noted no other fences that appear to be above four feet in height and located in a front yard setback.
- As of December 31, 2019, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of six feet six inches will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding four feet in height to be located in the front yard setback to be

constructed and maintained in the location and of the heights and materials as shown on this document.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on constructing and maintaining portions of the aforementioned metal fence, stone columns, and a wood/metal gate in the two 20-foot visibility triangles on both sides of the drive approach at the intersection with Edd Road.
- Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single-family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The property is located in R ½ ac(A) zoning district which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of a four-foot six-inch high tubular metal fence with stone columns that vary in height between five and 10 feet and a nine-foot high iron gate are located in the 20-foot visibility triangle on the north side of the driveway that intersects with Edd Road.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing how granting this request to maintain the proposed items in the two 20-foot visibility triangles on both sides of the driveway that intersect with Edd Road do not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items in the two 20-foot visibility triangles formed on each side of the driveway that intersects with Edd Road to that what is shown on these documents, the aforementioned metal fence, stone columns, and a wood/metal gate in the two 20-foot visibility triangles on both sides of the drive approach at the intersection with Edd Road.

Timeline:

November 14, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 17, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 26th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

December 30, 2019: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 189-012, on application of Juan Carlos Guerrero, represented by Elias Rodriguez of Construction Concepts, **grant** the applicant to construct and/or maintain a 10-foot 6-inch high fence as a special exception to the height requirement for fences and to maintain items in the visibility triangles at the driveway approach as a special exception to the visual obstruction regulations in the Dallas Development Code, subject to the following condition:

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

SECONDED: Vermillion

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-002(OA)

BUILDING OFFICIAL’S REPORT: Application of Javier La Fontaine for a special exception to the visual obstruction regulations at 5502 Merrimac Avenue. This property is more fully described as Lot 1, Block 5/2197, and is zoned CD No. 9, which requires 20-foot visibility triangles at the intersection of streets and driveway approaches. The applicant proposes to construct and/or maintain items in required visibility triangles, which requires a special exception to the visual obstruction regulations.

LOCATION: 5502 Merrimac Avenue

APPLICANT: Javier La Fontaine

REQUESTS:

A request for a special exception to the visual obstruction regulations is made to maintain portions of an eight-foot high solid wood fence in the 20-foot visibility triangles on the north side of the driveway that intersects with McMillan Avenue on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d) (3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

- Denial.

Rationale:

- The City of Dallas installed bike lanes with buffers on McMillian Avenue in 2015 after considering the roadway connectivity and pedestrian activity on an existing 4-foot sidewalk. Therefore, the Sustainable Development Department Senior Engineer states the fence compromises the visibility of pedestrians/bicyclists because there is not enough sight distance to see vehicles backing out of the subject driveway.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 9 (Conservation District)
North: CD No. 9 (Conservation District)
East: CD No. 9 (Conservation District)
South: CD No. 9 (Conservation District)
West: CD No. 9 (Conservation District)

Land Use:

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

Zoning/BDA History:

There have not been any related board or zoning cases recorded in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the visual obstruction regulations focuses on constructing portions of an eight-foot high solid wood fence in the 20-foot visibility triangle on the north side of the driveway that intersects with McMillan Avenue on a site developed with a single-family home.
- Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single-family); and

- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The property is located in CD No. 9 zoning district which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of an eight-foot high solid wood fence located in the 20-foot visibility triangle on the north side of the driveway that intersects with McMillan Avenue.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “denial”.
- The applicant has the burden of proof in establishing how granting this request to maintain portions of an 8’ high solid wood fence in the 20-foot visibility triangle on the north sides of the driveway into the site from McMillan Avenue does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be maintained in the 20-foot drive approach within the north visibility triangle into the site from McMillan Avenue to that what is shown on these documents – portions of an eight-foot high solid wood fence.

Timeline:

October 23, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 5, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 17, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 26th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;

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

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

December 31, 2019: The Sustainable Development Department Senior Engineer has submitted the bike lanes with buffers on McMillian Avenue pavement marking plans and a review comment sheet marked "Denial" (see attachment A).

BOARD OF ADJUSTMENT ACTION: January 22, 2020

APPEARING IN FAVOR: Javier La Fontaine, 5502 Merrimac Ave.,
Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Slade

I move that the Board of Adjustment, in Appeal No. BDA 190-002, on application of Javier La Fontaine, **deny** the special exception requested by this applicant to maintain items in the visibility triangle at the driveway approach **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: Hounsel

AYES: 3 - Hounsel, Vermillion, Slade

NAYS: 2 - Schwartz, Williams

MOTION PASSED: 3 – 2

FILE NUMBER: BDA190-005(SM)

BUILDING OFFICIAL’S REPORT:

Application of J. Jesus Ortiz for variances to the 1) front and 2) side yard setback regulations; special exceptions to the 3) single family regulations and 4) to provide an additional electrical meter; and for special exceptions to 5) the visual obstruction regulations, 6) fence height regulations, and 7) fence standards regulations at 3907 Mount Pleasant Street.

This property is more fully described as Lot 1, Block J/4932, and is zoned R-5(A), which 1) requires a front yard setback of 20 feet, 2) requires side yard setback of five feet, 3) limits the number of dwelling units to one, 4) requires that a single family dwelling use in a single family district may be supplied by not more than one electrical utility service and metered by not more than one electrical meter, 5) requires 20-foot visibility triangles at intersections of streets and driveway approaches 6) limits the height of a fence in the front yard to four feet, and 7) requires fence panels with a surface area that is less than 50 percent open to be located a minimum of five feet from the front lot line.

The applicant proposes to construct and/or maintain structures 1) provide a five-foot front yard setback, which will require a 15-foot variance to the front yard setback regulations and 2) provide a one-foot side yard setback, which will require a four-foot variance to the side yard setback regulations; and 3) construct and/or maintain an accessory dwelling unit, which will require a special exception to the single family zoning use regulations, 4) have more than one electrical utility service, or more than one electrical meter, which will require a special exception to the single family zoning use regulations; 5) construct and/or maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulation; 6) construct and/or maintain an eight-foot six-inch high fence in a required front yard, which will require a four-foot six-inch special exception to the fence regulations, and 7) construct and/or maintain a fence with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line, which will require a special exception to the fence regulations.

LOCATION: 3907 Mount Pleasant Street

APPLICANT: J. Jesus Ortiz

REQUESTS:

The following seven requests have been made to construct a 2,974-square-foot four-bedroom, three-bathroom single family home; remodel the existing 584-square-foot accessory structure into a dwelling unit with separate utilities; and construct a fence around the property that crosses a new circular drive on the subject site:

1. A request for a variance to the front yard setback regulations of 15 feet to construct two structures that would be located as close as five feet from the site's front property line or as much as 15 feet into the 20-foot front yard setback.
2. A request for a variance to the side yard setback regulations of one foot to construct an accessory structure that would be located as close as four feet from the site's side property line or as much as one foot into the five-foot side yard setback.
3. A request for a special exception to the single-family use regulations is made to maintain an accessory dwelling unit to the proposed new home.
4. A request for a special exception to the single-family use regulations is made to have more than one electrical utility service or electrical meter on a site with a single-family use.
5. A request for a special exception to the visual obstruction regulations is made to construct a four-foot high wrought iron fence located in the 20-foot visibility triangles on the north and south sides of the northern drive approach at the intersection of Mount Pleasant Street of a proposed circular driveway.
6. A request for a special exception to the fence standards regulations related to the fence height of four feet to construct an eight-foot six-inch high fence in a required front yard, which will require a four-foot six-inch special exception to the fence regulations.
7. A request for a special exception to the fence standards regulations related to fence panels having less than 50 percent open surface area when located less than five feet from the front lot line to construct a solid wood fence within five feet of the front lot line.

STANDARDS:

For these requests, the applicant has the burden of proof in establishing the following standards have been met.

Variances³ (first and second requests):

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

1. 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;
2. 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
3. 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.

Special exception to authorize an accessory dwelling unit⁴ (third request):

The board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize a rentable accessory dwelling unit on a lot when, in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to

1. deed restrict the subject property to require owner-occupancy on the premises and
2. annually register the rental property with the city's single-family non-owner-occupied rental program.

Special exception authorizes more than one electrical utility service or more than one electrical meter⁵ (fourth request):

³ Reference Section 51(A)-3.102(d)(10) of the Dallas Development Code.

⁴ Reference Section 51(A)-4.209(b)(6)(E)(iii) of the Dallas Development Code.

The board may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single-family zoning, duplex, or townhouse district when, in the opinion of the board, the special exception will:

1. not be contrary to the public interest;
2. not adversely affect neighboring properties; and
3. not be used to conduct a use not permitted in the zoning district.

Special exception to the visual obstruction regulations⁶ (fifth request):

The board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

Special exception to fence standards regulations⁷ (sixth and seventh requests):

The board may grant a special exception to the fence standards regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

⁵ Reference Section 51(A)-4.209(b)(6)(E)(v) of the Dallas Development Code.

⁶ Reference Section 51A-4.602(d)(3) of the Dallas Development Code.

⁷ Reference Section 51A-4.602(d)(3) of the Dallas Development Code.

STAFF RECOMMENDATIONS:
Front yard variance (first request):

Denial

Rationale:

- Staff concluded that the request should be denied because the applicant has not provided documentation to address the following components of the variance standard prior to the deadline for the December 30th staff review team meeting:
 1. how the variance was necessary to permit development of this parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope (in this case, a site that, while irregularly shaped and is larger at approximately 8,832 square feet in area than other lots zoned R-5(A) which require a minimum lot size of 5,000 square feet), that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning (the applicant provided no information related to this); and
 2. how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

Side yard variance (second request):

Denial

Rationale:

- Staff concluded that the request should be denied because the applicant has not provided documentation to address the following components of the variance standard prior to the deadline for the December 30th staff review team meeting:
 1. how the variance was necessary to permit development of this parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope (in this case, a site that, while irregularly shaped and is larger at approximately 8,832 square feet in area than other lots zoned R-5(A) which require a minimum lot size of 5,000 square feet), that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning (the applicant provided no information related to this); and
 2. how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

Accessory dwelling unit special exception (third request):

No staff recommendation is made on this or any request for a special exception to authorize a rentable accessory dwelling unit since the basis for this type of appeal is *when in the opinion of the board*, the accessory dwelling unit will not adversely affect neighboring properties.

Authorization of more than one electrical utility service or more than one electrical meter special exception (fourth request):

No staff recommendation is made on this or any request for a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single family zoning district since the basis for this type of appeal is *when in the opinion of the board*, the standards described above are met.

Visibility triangle special exception (fifth request):

Denial

Rationale:

- The Sustainable Development Department Senior Engineer has submitted a review comment sheet and related document marked “recommends denial”. The Senior Engineer comments that: “Gate design proposes to obstruct visibility of driveway from residential traffic traveling on Mt Pleasant Street as well as adjacent sidewalk. Design of proposed fence should respect visibility standards due to 1) roadway horizontal curvature and 2) angle at which motorist maneuver at subject driveway.”
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the items to be maintained in the drive approach visibility triangles constitute a traffic hazard.

Fence special exceptions (sixth and seventh requests):

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

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single Family District)
North: R-5(A) (Single Family District)
East: R-5(A) (Single Family District)
South: R-5(A) (Single Family District)
West: MF-2(A) (Multifamily District)

Land Use:

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

Zoning/BDA History:

There have been no related board or zoning cases near the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS

The purpose of these requests for variances and special exceptions is to construct a 2,974-square-foot four-bedroom, three-bathroom single family home; remodel the existing 584-square-foot accessory structure into a dwelling unit with separate utilities; and construct a fence around the property that crosses a new circular drive on the subject site.

Front and side variances (first and second request):

The purpose of the front and side yard variance requests of 15 and one foot, respectively, is to construct a single-family structure and accessory structure in the locations shown on the submitted site plan. The location of the proposed larger structure requires a front yard variance to be located 15 feet within the required 20-foot front yard setback and the accessory structure needs both a front yard variance of 15 feet and a side yard variance of one foot to be constructed in the location shown in the submitted site plan.

The site is located on the northeast line of Mount Pleasant Street, west of South Albrook Street and south of Mount Royal Street in the R-5(A) district which requires a minimum of 5,000 square feet of lot area, a 20-foot front yard setback, and, for this site, two five-foot side yard setbacks. The irregularly shaped subject site is flat and approximately 8,832 square feet in lot area, according to Dallas Central Appraisal

District records, which is greater than the minimum 5,000-square-foot lot size required by the R-5(A) zoning district.

If the board was to grant the variance request, and impose the submitted site plan as a condition, the structures in the front and side yard setbacks would be limited to what is shown on this document – which, in this case, are structures that are located as close as five feet from the site’s front property line (or 15 feet into the 20-foot front yard setback) and an accessory structure that is located as close as four feet from the site’s side yard property line adjacent to the alley (or one foot into the five-foot side yard setback).

Single family special exceptions (third and fourth requests):

The applicant proposes to remodel the existing 584-square-foot accessory structure into a dwelling unit with separate utilities. Since the proposed floor plan of the accessory structure contains a kitchen, bedroom, and bathroom within a separate accessory structure on a single-family premise and since the applicant requests more than one electrical utility service or electrical meter, two special exceptions to the single-family use regulations are required.

The Dallas Development Code states that *single family* means one dwelling unit located on a lot and that a *dwelling unit* means one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens⁸, one or more bathrooms⁹, and one or more bedrooms¹⁰.

If the board was to grant this request, the board may choose to impose a condition that the applicant comply with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an accessory dwelling unit with separate utilities on the site.

If the board was to grant these requests, the applicant could remodel the existing 584-square-foot accessory structure into a dwelling unit with separate utilities. However, if the board was to deny these requests, the applicant could still modify the accessory structure that complies with all other zoning regulations on the subject site, but it may

⁸ KITCHEN means any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities. Reference §51A-2.102(57.1) of the Dallas Development Code, as amended.

⁹ BATHROOM means any room used for personal hygiene and containing a shower or bathtub or containing a toilet and sink. Reference §51A-2.102(8.1) of the Dallas Development Code, as amended.

¹⁰ BEDROOM means any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms. Reference §51A-2.102(9) of the Dallas Development Code, as amended.

not be constructed with all three elements that constitute a dwelling unit or with separate utilities.

Visual obstruction special exceptions (fifth request):

The applicant also proposes to add a circular driveway and perimeter fencing and a vehicular gate within one set of visibility triangles on the northern portion of the proposed circular drive, which requires a special exception to the visual obstruction regulations. The submitted site plan and fence elevations show portions of a four-foot high wrought iron fence with a rolling vehicular gate supported by four-foot six-inch tall columns located in the two 20-foot visibility triangles on both sides of the north driveway approach intersecting with Mount Pleasant Street.

The property is located in a zoning district which requires compliance with Section 51A-4.602(d) of the Dallas Development Code which states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “recommends denial”. The Senior Engineer comments that: “Gate design proposes to obstruct visibility of driveway from residential traffic traveling on Mt Pleasant Street as well as adjacent sidewalk. Design of proposed fence should respect visibility standards due to 1) roadway horizontal curvature and 2) angle at which motorist maneuver at subject driveway.”

If the board was to grant this request with a condition imposed that the applicant complies with the submitted site plan and fence elevations, the applicant would be limited to the items shown on the submitted documents. If the board was to deny this request, the applicant could construct a circular driveway and a perimeter fence could not obstruct these 20-foot visibility triangles.

Fence special exceptions (sixth and seventh requests):

The purpose of these last two special exceptions to the fence standards is to construct a fence which exceeds four feet in height within the front yard setback and to construct fence panels with a surface area that is less than 50 percent open within five feet of the

front lot line on Mount Pleasant Street. Regarding the fence height, the submitted site plan and fence elevations show an eight-foot six-inch high wooden privacy fence which encloses approximately 70 feet of the northern portions of the subject site along Mount Pleasant Street and four-foot six-inch tall columns which support a wrought iron fence along the southern portions of the subject site along Mount Pleasant Street. Regarding the openness of the fence, portions of the proposed eight-foot six-inch high wooden privacy fence which are less than five feet from the front lot line which also requires a fence standards special exception.

The Dallas Development Code states

1. In all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard¹¹.
2. In single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line¹².

Staff conducted a field visit of the site and the surrounding area and noted the property to the north has a solid wood fence above four feet in height with fence panels with surface area that is less than 50 percent open; however, board approval for that property could not be found.

As of December 31, 2019, no letters had been submitted in support of or in opposition to the requests for special exceptions to the fence standards regulations.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height and prohibited materials the site will not adversely affect neighboring property.

If the board was to grant these special exceptions with a condition imposed that the applicant complies with the submitted site plan and fence elevation, it would require the portions of the fences which exceed four feet in height in the front yard setbacks and the portions with fence panels with surface area that is less than 50 percent open and within five feet of the front lot line to be constructed and maintained in the locations and of the heights and materials as shown on these documents.

¹¹ Reference Section 51A-4.602(a)(2) of the Dallas Development Code.

¹² Reference Section 51A-4.602(a)(3) of the Dallas Development Code.

TIMELINE:

- October 30, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 5, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- December 9, 2019: The Interim Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the December 27th deadline to submit additional evidence for staff to factor into their analysis; and the January 10th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:
- a copy of the application materials including the Building Official’s report on the application;
 - 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.”
- December 25, 2019: The applicant’s representative submitted a letter to the board (see Attachment A).
- December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: The Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.
- December 30, 2019: The City of Dallas Sustainable Development and Construction Senior Engineer submitted a memo regarding this application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: January 22, 2020

- APPEARING IN FAVOR:** Mack Davis, 3907 Mt. Pleasant St., Dallas, TX
Jesus Ortiz, 3907 Mt. Pleasant St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION 1 of 7: **Slade**

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the 15-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: **Vermillion**

AYES: 4 - Schwartz, Vermillion, Williams, Slade

NAYS: 1 - Hounsel

MOTION PASSED: 4 – 1

MOTION 2 of 7: **Slade**

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the four-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: **Vermillion**

AYES: 4 - Schwartz, Vermillion, Williams, Slade

NAYS: 1 - Hounsel

MOTION PASSED: 4 – 1

MOTION 3 of 7: **Vermillion**

I move that the Board of Adjustment, in request No. BDA 190-005 on application of J. Jesus Ortiz, **grant** the request to construct and maintain an accessory dwelling unit on a site developed with a single family structure and use as a special exception to the single family use regulations requirements in the Dallas Development Code, because

our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

- The applicant must deed restrict the subject property to require owner-occupancy on the premises.
- The applicant must annually register the rental property with the city's single-family non-owner-occupied rental program.

SECONDED: Slade

AYES: 4 - Schwartz, Vermillion, Williams, Slade

NAYS: 1 - Hounsel

MOTION PASSED: 4 – 1

MOTION 4 of 7: Vermillion

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the request to install and maintain an additional electric meter on the property as a special exception to the single family regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not be contrary to the public interest, will not adversely affect neighboring property, and will not be used to conduct a use not permitted in the district where the building site is located.

SECONDED: Slade

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION 5 of 7: Slade

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the request to maintain items in the visibility triangles at the driveway approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code, as amended:

- Compliance with the submitted site plan and fence elevations are required.

SECONDED: Williams

AYES: 5 - Schwartz, Hounsel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION 6 of 7: Slade

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the request of this applicant to construct and/or maintain an eight-foot six-inch high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

- Compliance with the submitted site plan and fence elevations are required.

SECONDED: Vermillion

AYES: 5 - Schwartz, Housel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION 7 of 7: Vermillion

I move that the Board of Adjustment, in Appeal No. BDA 190-005, on application of J. Jesus Ortiz, **grant** the 15-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: Williams

AYES: 5 - Schwartz, Housel, Vermillion, Williams, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

The meeting was adjourned **at 5:07 P.M. on January 22, 2020.**

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.