

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, AUGUST 15, 2017**

MEMBERS PRESENT AT BRIEFING: Peter Schulte, vice-chair, Robert Agnich, alternate member, Gary Sibley, alternate member, Philip Lewis, alternate member and Philip Sahuc, alternate member

MEMBERS ABSENT FROM BRIEFING: Michael Gibson, regular member and Elizabeth Nelson, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Lam, Engineering, Jennifer Munoz, Senior Planner, Phil Erwin, Chief Arborist, Neva Dean, Asst. Director and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Peter Schulte, vice-chair, Robert Agnich, alternate member, Gary Sibley, alternate member, Philip Lewis, alternate member and Philip Sahuc, alternate member

MEMBERS ABSENT FROM HEARING: Michael Gibson, regular member and Elizabeth Nelson, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Lam, Engineering, Jennifer Munoz, Senior Planner, Phil Erwin, Chief Arborist, Neva Dean, Asst. Director and Trena Law, Board Secretary

11:25 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **August 15, 2017** docket.

1:12 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand

upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel June 20, 2017 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA162-82(JM)

BUILDING OFFICIAL'S REPORT: Application of John A. Moore, represented by Pov Chin, for a special exception to the landscape regulations and a special exception to the off-street parking regulations at 13729 N. Central Expressway. This property is more fully described as Lot 1.1, Block B/7763, and is zoned MU-3, which requires mandatory landscaping and requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to construct and/or maintain a structure for a general merchandise or food store 3500 square feet or less use, and a motor vehicle fueling station use, and provide 6 of the 8 required parking spaces which will require a 2 space special exception to the off-street parking regulations.

LOCATION: 13729 N. Central Expressway

APPLICANT: John A. Moore
Represented by Pov Chin

REQUEST:

The following requests have been made on a site that is developed with a commercial structure including a motor vehicle fueling station:

1. A request for a special exception to the landscape regulations to construct and maintain a structure and provide an alternate landscape plan, not fully meeting the landscape regulations.
2. A request for a special exception to the off-street parking regulations of 2 spaces is made to construct a 1,200 square foot building for a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station on a site that is currently developed with a motor vehicle fueling station use, and provide 6 of the required 8 off-street parking spaces.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS:

The board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that:

1. Strict compliance with the requirements of this article will unreasonably burden the use of the property;
2. The special exception will not adversely affect neighboring property; and
3. The requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

1. The extent to which there is residential adjacency.
2. The topography of the site.
3. The extent to which landscaping exists for which no credit is given under this article.
4. The extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). 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 the 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 of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
 - 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
 - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION (special exception to the landscape regulations):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale for approval:

- Staff concurs with the Chief Arborist and recommends approval of this request with the condition imposed above because strict compliance with this article will unreasonably burden the use of this property and this special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION (special exception to the off-street parking regulations):

Approval, subject to the following condition:

- The special exception of 2 spaces shall automatically and immediately terminate if and when the general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses are changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Project Engineer indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	MU-3 Mixed Use District
<u>North:</u>	MU-3 Mixed Use District; SUP No. 1818
<u>East:</u>	IR Industrial Research District
<u>South:</u>	IR Industrial Research District
<u>West:</u>	MU-3 Mixed Use District

Land Use:

The subject site is currently a motor vehicle fueling station. To the immediate north is a general merchandise or food store 100,000 square feet or more use. North Central Expressway lies to the east and south with an office use across the expressway. A restaurant without drive-in or drive-through service exists to the west.

Zoning/BDA History:

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

GENERAL FACTS/ STAFF ANALYSIS (special exception to the landscape regulations):

- This request focuses on the new construction of a proposed commercial project on a lot currently developed with a motor vehicle fueling station use, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted alternate landscape plan would not conform to Article X landscape regulation standards related to design standards.
- The new construction of a proposed commercial project triggers compliance with Article X landscape regulations. The applicant plans to tear down the existing structure. In order to build a new structure, they must comply with current codes, including landscaping (Article X).
- The proposed revised alternate landscape plan is deficient in the following:
 - a. Design standards – Sec 51A-10.126 – One design standard is provided where two are required. Screening of parking is provided.
- The City of Dallas Chief Arborist states in a memo (see Attachment B) that the request in this case is triggered by the new construction of a commercial project.
- The Chief Arborist listed one factor for consideration:

- a. The plan calls for the removal of one protected tree adjacent to Mid Park Road.
- The chief arborist recommends approval of this revised alternate landscape plan because the special exception would not adversely affect neighboring property.
- The applicant has the burden of proof in establishing the following:
 - The special exception complies with Section 51(A) 10.110.
- If the board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to the landscape regulations.

GENERAL FACTS/STAFF ANALYSIS (special exception to the off-street parking regulations):

- This request focuses on constructing and maintaining a 1,200 square foot structure for a proposed general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses on a site that is developed with a motor vehicle fueling station use, and providing 6 of the required 8 off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirements:
 - General merchandise or food store 3,500 square feet or less use: 1 space per 200 square feet.
 - Motor vehicle fueling station use: 2 spaces
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the request (Attachment A).
- The applicant has the burden of proof in establishing the following:
 - The parking demand expected to be generated by the “general merchandise or food store 3,500 square feet or less and motor vehicle fueling station” uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 2 spaces (or a 25 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 2 spaces shall automatically and immediately terminate if and when the general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses are changed or discontinued; the applicant would be allowed to construct and maintain the structure on the site with this specific use (“general merchandise or food store 3,500 square feet or less and motor vehicle fueling station”) with the specified square footage, and provide 6 of the 8 code required off-street parking spaces.

TIMELINE:

- April 17, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case".
- July 14, 2017: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- August 2, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections," (see Attachment A).
- August 3, 2017: The City of Dallas Chief Arborist submitted a memo regarding the request for a special exception to the front yard setback regulations of up to 19' 3.5" for tree preservation (see Attachment B).

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Sibley

I move to grant that the Board of Adjustment grant application **BDA 167-082(JM)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised alternate landscape plan is required.
- The special exception of two spaces shall automatically and immediately terminate if and when the general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses are changed or discontinued.

SECONDED: Agnich

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-087(JM)

BUILDING OFFICIAL’S REPORT: Application of James A. Enderby for special exceptions to the fence standards at 7504 Westbend Drive. This property is more fully described as Lot 20, Block D/8140, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain an 8 foot 2 inch high fence in a required front yard, which will require a 4 foot 2 inch special exception to the fence standards, and to construct and/or maintain fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 7504 Westbend Drive

APPLICANT: James A. Enderby

REQUEST:

The following requests for special exceptions to the fence standards have been made on a site that is developed with a single family home:

- 1) A special exception related to fence height of 4' 2" is made to complete and maintain a fence higher than 4' in height in the front yard setback (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2");); and
- 2) A special exception related to fence materials is made to complete and maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).

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:

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

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the fence standards focus on completing and maintaining: 1) a fence higher than 4' in height in the front yard setback (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2");); and, 2) a fence with panels with surface areas that are less than 50 percent

- open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-7.5(A).
 - Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8' 2".
 - The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height is represented as being approximately 15' to the west, parallel to Westbend Drive; 75' at the south, parallel to Fairglen Drive; 23' at the southeast corner of the alley and Fairglen Drive; and, parallel to the alleyway for 10'—all within the front yard setback.
 - Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:
 - The Dallas Development Code states that 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 line.
 - With regard to the special exception to the fence standards pertaining to the location and materials of the proposed fence, the applicant has submitted a site plan and elevation of the fence with fence panels with surface areas that are less than 50 percent open (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2") located as close as on the front lot line (or less than 5' from this front lot line).
 - The Board Senior Planner conducted a field visit of the site and surrounding area within the same block facing Westbend Drive, Fairlgen Drive, Mapleglen Drive, and Arborgate Street and noted **no other fences** that appeared to be above 4' in height and located in a front yard setback.
 - As of August 4, 2017, 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 height over 4' in the front yard setback and materials/height/location of the proposed fence 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 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be

constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

- June 6, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 14, 2017: The Board Administrator emailed the following information to the applicant’s representative:
- a copy of the application materials including the Building Official’s report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department 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: AUGUST 15, 2017

APPEARING IN FAVOR: James Enderby, 7504 Westbend Drive, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-087**, on application of James Enderby, **grant** the request of this applicant to construct and/or maintain a eight-

foot two-inch high fence as a special exception to the height requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Schulte

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-087**, on application of James Enderby, **grant** the request of this applicant to complete and maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Schulte

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-092(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 5445 La Sierra Drive. This property is more fully described as Lot 3A, Block A/5461, and is zoned GO(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for an office use and a medical clinic or ambulatory surgical center use, and provide 175 of the required 221 off-street parking spaces, which will require a 46 space special exception to the off-street parking regulations.

LOCATION: 5445 La Sierra Drive

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 46 spaces is made to occupy and lease an existing multi-story structure on the subject site (some of

which is vacant) with office and medical clinic or ambulatory surgical center uses, and provide 175 (or 79 percent) of the 221 required off-street parking spaces.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). 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 the 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 of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 46 spaces shall automatically and immediately terminate if and when the office and medical clinic or ambulatory surgical center uses are changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering indicated that he has no objections to the applicant’s request.

BACKGROUND INFORMATION:

Zoning:

Site: GO(A) (General office)
North: GO(A) (General office)
South: NO(A) (Neighborhood office)
East: MF-4(A) (Multifamily)
West: GO(A) (General office)

Land Use:

The subject site is developed with an existing approximately 58,500 square foot multi-story structure. The areas to the north, south, and west are developed with office use; and the area to the east is developed with a multifamily use.

Zoning/BDA History:

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| <ol style="list-style-type: none"> 1. BDA123-096, Property at 5444 La Sierra Drive (the property south of the subject site) | <p>On October 22, 2013, the Board of Adjustment Panel A granted a request for a special exception to the off-street parking regulations of 7 spaces and imposed the following condition: That the fence on the site is of open metal/iron material; and 2)</p> |
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That visibility triangles remain open on the site. The special exception of 7 off street parking spaces automatically and immediately terminates if and when the medical clinic or ambulatory surgical center use is changed or discontinued.

The case report stated that the request was made in conjunction with leasing and maintaining an existing approximately 6,800 square foot vacant structure with medical clinic or ambulatory surgical center use and providing 27 (or 79 percent) of the 34 required off-street parking spaces).

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 46 spaces focuses on occupying and leasing an existing multi-story structure on the subject site (some of which is vacant) with office and medical clinic or ambulatory surgical center uses, and providing 175 (or 79 percent) of the 221 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
 - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area.
 - Office use: 1 space per 333 square feet of floor area.
- The applicant has submitted a study that states among other things that the existing building on the subject site is currently 43 percent vacant, and that the projected peak parking demand based upon industry-published parking demand rates at project peak conditions at full occupancy is 175 spaces.
- The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the “office” and “medical clinic or ambulatory surgical center” use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 46 spaces (or a 21 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 46 spaces shall automatically and immediately terminate if and when the office and medical clinic uses are changed or discontinued, the applicant could occupy and lease the existing multi-story structure on the subject site with office and medical clinic or ambulatory surgical center uses, and provide 175 (or 79 percent) of the 221 required off-street parking spaces.

Timeline:

- June 15, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 11, 2017: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- August 2, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., Dallas, TX

APPEARING IN OPPOSITION: Jonathan Vinson, 2323 Ross Ave., Ste 600, Dallas, TX
Duane Davis, 6441 Waggoner Dr., Dallas, TX

MOTION #1: Sahuc

I move that the Board of Adjustment in Appeal No. **BDA 167-092** hold this matter under advisement until **September 19, 2017**.

SECONDED: Agnich

AYES: 1 – Sahuc

NAYS: 4 - Schulte, Agnich, Sibley, Lewis,

MOTION FAILED: 1 – 4

MOTION #2: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 167-092**, on application of Robert Baldwin, **grant** the request of this applicant to provide 175 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code which require 221 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a medical clinic /office uses only. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 46 spaces shall automatically and immediately terminate if and when the medical clinic / office uses are changed or discontinued.

SECONDED: Agnich

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-049(SL)

BUILDING OFFICIAL’S REPORT: Application of Juan G Trejo for special exceptions to the fence standards and visual obstruction regulations at 8907 Sorrento Street. This property is more fully described as Lot 16, Block 1/7379, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a 6 foot 6 inch high fence in a required front yard, which will require a 2 foot 6 inch special exception to the fence standards, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 8907 Sorrento Street

APPLICANT: Juan G Trejo

REQUESTS:

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

1. A request for a special exception to the fence standards related to height of 2' 6" is made to maintain a fence (a 6' 6" high solid cedar board-on-board fence and sliding gate) higher than 4' in height in one of the site's two required front yards (Gross Road); and
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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):

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.

ORIGINAL STAFF RECOMMENDATION (visual obstruction special exceptions) :

Denial

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who recommends that these requests be denied.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.

UPDATED STAFF RECOMMENDATION (visual obstruction special exceptions) :

Denial

Rationale:

- The Sustainable Development Department Assistant Director of Engineering recommends that these requests be denied commenting "Mirrors are not reliable. Visibility is especially important at this location due to proximity to school children."

- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with a single family home. The areas to the north, south, east are developed with single family uses; and the area to the west is a school (George W. Truett Elementary School).

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (fence standards):

- The request for a special exception to the fence standards related to height of 2' 6" focuses on maintaining a 6' 6" high solid cedar board-on-board fence and sliding gate in one of the site's two required front yards (Gross Road) on a site developed with a single family home.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northwest corner of Sorrento Street and Gross Road.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards. The site has a 30' required front yard caused by a platted building line along Sorrento Street (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 20' required front yard caused by a 20' platted building line along Gross Road, (the longer of the two frontages which is typically considered a side yard where on this R-7.5(A) zoned property a 9' high fence could be erected by right). However the site has a required front yard along Gross Road in order to maintain continuity of the established front yard setback along this street frontage where a lot to the west of the subject site (developed with an elementary school) "fronts" on Gross Road.

- The applicant has submitted a site plan and an elevation of the proposal/existing fence in the Gross Road required front yard indicating that the proposal reaches a maximum height of 6' 6". (The submitted site plan only denotes a fence higher than 4' in the Gross Road required front yard).
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 70' in length parallel to Gross Road and approximately 15' perpendicular to Gross Road on the east and west sides of the site in this front yard setback.
 - The proposal is represented as being located approximately 5' – 7' from Gross Street front property line or approximately 13' – 15' from the pavement line.
- Two single family lots front the existing fence, neither with fences in the front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area approximately 300 feet east and west of the site and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of April 7, 2017, no letters had been submitted in support of the request, and one letter has been submitted in opposition. But as of August 4, 2017, two letters had been submitted in support of the request, and one letter had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards of 2' 6" will not adversely affect neighboring property.
- Granting this special exception of 2' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal/existing fence exceeding 4' in height in the Gross Street required front yard to be maintained in the location and of the heights and materials as shown on these documents.

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

- The requests for special exceptions to the visual obstruction regulations focus on maintaining portions of a 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.
- 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 applicant submitted a site plan and an elevation representing a 6' 6" high solid board-on-board fence in two, 20' visibility triangles at the driveway into the site on Gross Road.
- On April 7, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Visibility is especially important at this location due to the proximity of school children".

- On July 2, 2017, the applicant submitted additional information to staff (see Attachment A). The additional information included photos the applicant had taken on the property showing the installation of mirrors atop the fence along Gross Road on either side of the driveway.
- On August 2, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Mirrors are not reliable. Visibility is especially important at this location due to proximity to school children.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 6’ 6” high solid board-on-board fence/sliding gate in two 20’ visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

February 21, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 15, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th 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.

April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

- April 7, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Visibility is especially important at this location due to the proximity of school children.”
- April 18, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The Board delayed action on this application until their public hearing to be held on August 15, 2017.
- April 25, 2017: The Board Administrator wrote the applicant a letter of the board’s action; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials.
- July 2, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the April 18th public hearing (see Attachment A).
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- August 2, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Mirrors are not reliable. Visibility is especially important at this location due to the proximity of school children.”

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: Juan Trejo, 8907 Sorrento St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move that the Board of Adjustment in Appeal No. **BDA 167-049**, hold this matter under advisement until **August 15, 2017**.

SECONDED: Schulte

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

APPEARING IN FAVOR: Juan G Trejo, 8907 Sorrento St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Agnich

I move that the Board of Adjustment, in Appeal No. **BDA 167-049**, on application of Juan G. Trejo, **grant** the request of this applicant to construct and/or maintain a six-foot six-inch high fence as a special exception to the height requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required.
- Convex mirrors must be installed and maintained in working order at all times.

SECONDED: Sibley

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 167-049**, on application of Juan G. Trejo, **grant** the request to maintain items in the visibility triangle at the driveway approaches as a special exception to the visual obstruction regulation contained in the Dallas Development Code, 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:

- Compliance with the submitted site plan and elevation is required.
- Convex mirrors must be installed and maintained in working order at all times.

SECONDED: Agnich

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-072(SL)

BUILDING OFFICIAL’S REPORT: Application of Grant Schmidt for a variance to the off-street parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758, and is zoned R-7.5(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a church use, and provide 0 of the required 27 off-street parking spaces, which will require a 27 space variance to the off-street parking regulations.

LOCATION: 7103 Mumford Court

APPLICANT: Grant Schmidt

REQUEST:

A request for a variance to the off-street parking regulations of 27 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and provide 0 of the 27 required off-street parking spaces.

STANDARD FOR A VARIANCE:

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

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

ORIGINAL STAFF RECOMMENDATION (June 20, 2017):

Denial

Rationale:

- Staff had concluded that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations was

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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.

- While staff had recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

UPDATED STAFF RECOMMENDATION (August 15, 2017):

Denial

Rationale:

- Staff concluded after factoring the new information submitted by the applicant at the June 20th public hearing that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations was 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.
- While staff recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: PD 173 (Planned Development)
South: R-7.5(A) (Single family residential 7,500 square feet)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with an existing approximately 3,000 square foot church use (Congregation Toras Chaim). The areas to the north, south, east, and west are developed with single family residential uses.

Zoning/BDA History:

- | | |
|--|---|
| 1. Miscellaneous Item 2, BDA167-072, Property at 7103 Mumford Court (the subject site) | On June 20, 2017, the Board of Adjustment Panel A denied a request to reimburse filing fee made in conjunction with this application. |
|--|---|

GENERAL FACTS/STAFF ANALYSIS:

- This request for a variance to the off-street parking regulations of 27 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and providing 0 of the 27 required off-street parking spaces.
- The site is zoned R-7.5(A) and is bounded by three streets: Frankford Road on the north, Mumford Court on the south, and Meandering Way on the west. The site has two 25' front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The Dallas Development Code requires the following off-street parking requirement for "church" use:
 - One space per 333 square feet in floor area if a church has less than 5,000 square feet of floor area and is located in a shopping center with more than 20,000 square feet in floor area, otherwise one space for each four fixed seats in the sanctuary or auditorium. If fixed benches or pews are provided, each 18 inches of length of the fixed bench or pew constitutes one fixed seat for purposes of this paragraph. If portions of seating areas in the sanctuary or auditorium are not equipped with fixed seats, benches, or pews, the parking requirement for those portions is one space for each 28 square feet of floor area.
 - Definitions. For purposes of this subsection, "remote parking" means required off-street parking provided on a lot not occupied by the main use. "Shared parking" means the use of the same off-street parking stall to satisfy the off-street parking requirements for two or more uses.
 - Reconciliation with Divisions 51A-4.300 et seq.. Except as otherwise expressly provided in this subsection, the off-street parking regulations in Divisions 51A-4.300 et seq. apply to this use. In the event of a conflict between this subsection and Divisions 51A-4.300 et seq., this subsection controls.
 - Remote and shared parking. A church may use remote and/or shared parking to satisfy up to 50 percent of its off-street parking requirement, provided that the remote and/or shared parking is on a lot that is:
 - (aa) dedicated to parking use by an instrument filed with the building official and approved by the city attorney's office;
 - (bb) located in a non-residential district; and

- (cc) located within 600 feet (including streets and alleys) of the lot occupied by the church. The distance measured is the shortest distance between the lots.
- Distance extension with shuttle service. A remote parking lot for a church may be located up to one and one-half miles (including streets and alleys) from the lot occupied by the church if a shuttle service is provided to transport persons between the church and the remote parking lot. The shuttle service route must be approved by the traffic engineer.
 - Remote parking agreement. An agreement authorizing a church to use remote parking may be based on a lease of the remote parking spaces if:
 - (aa) the lease is for a minimum term of three years; and
 - (bb) the agreement provides that both the owner of the lot occupied by the church and the owner of the remote lot shall notify the city of Dallas in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.
- The Building Inspection Senior Plans Examiner/Development Code Specialist stated that a plan review of the seating areas in the sanctuary or auditorium that are not equipped with fixed seats, benches, or pews, was conducted on the property whereby it was determined with the parking requirement for those portions being 1 space for each 28 square feet of floor area that 27 off-street parking spaces were required for the use on the subject site.
 - The applicant submitted a document that states among other things that no parking analysis or traffic study has been provided because church members generally do not drive to worship.
 - The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations 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).
 - According to Collin CAD records, the “total improvement main area” for property addressed at 7103 Mumford Court is a “residential” improvement with 3,572 square feet constructed in 1986.
 - The subject site is flat, rectangular in shape, and (according to the application) is 0.29 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where most lots in this zoning district are 7,500 square feet in area.
 - The site has two front yard setbacks and two side yard setbacks. Most lots in this zoning district have one front yard setback, one rear yard setback, and two side yard setbacks.
 - On June 9, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
 - The Board of Adjustment Panel A conducted a public hearing on this application on June 20, 2017. The applicant submitted additional written documentation to the Board at this public hearing which in this case was a paper copy of the applicant’s power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.

- On July 28, 2017, the applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20th public hearing (see Attachment C). The new documentation included a letter that stated among other things: 1) “we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary”; and 2) “we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing.” (Included in Attachment C is the Board Administrator’s August 1st response to the applicant on these two issues).
- On August 2, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant this request for a variance to the off-street parking regulations of 27 spaces, the applicant would be meeting one aspect of obtaining a Certificate of Occupancy for a church use on the subject site.

Timeline:

February 24, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 9, 2017: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to

- submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

May 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" commenting "Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces".

June 20, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The applicant submitted additional written documentation to the Board at the public hearing which in this case was a paper copy of the applicant's power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.

June 22, 2017: The Board Administrator wrote the applicant a letter of the board's action; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials.

July 28 & August 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20th public hearing (see Attachment C). The new documentation included a letter that stated among other things: 1) "we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City's forthcoming

proposals, recommendations, or suggestions, and determine whether the variance application is still necessary”; and 2) “we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing.” (Attachment C includes the Board Administrator’s response to the applicant on these two issues).

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

August 2, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”

BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017

APPEARING IN FAVOR: Grant Schmidt, 2501 N Harwood St., Dallas, TX
Chulsey Youman, 1000 Plano Pkwy, Plano, TX

APPEARING IN OPPOSITION: David Schneider, 7035 Mumford, Dallas, TX
Robert Colmery, 7123 Mumford, Dallas, TX
Kevin Arligton, 7003 Mumford, Dallas, TX

MOTION #1: Schulte

I move that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

SECONDED: Agnich

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

2:51 P.M.: Executive Session Begins

3:08 P.M.: Executive Sessions Ends

MOTION #2: Agnich

I move that the Board of Adjustment, in request No. **BDA 167-072(SL)**, hold this matter under advisement until **August 15, 2017**.

SECONDED: Nelson

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

APPEARING IN FAVOR: Grant Schmidt, 2501 N. Harwood, Dallas, TX

APPEARING IN OPPOSITION: No one

APPEALRING FOR THE CITY: Kristen Monkhouse, 1500 Marilla St., Dallas, TX

MOTION #1: Schulte

I move that the Board of Adjustment, in request No. **BDA 167-072**, hold this matter under advisement until **September 19, 2017**.

SECONDED: No one

*Motion Failed for lack of a second.

MOTION #2: Agnich

I move that the Board of Adjustment, in request No. **BDA 167-072**, hold this matter under advisement until **October 17, 2017**.

SECONDED: Sibley

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-086(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for variances to the front yard setback and off-street parking regulations at 10727 Midway Road. This property is more fully described as an unplatted 4.28 acre parcel in Block C/6154, and is zoned R-16(A), which requires a front yard setback of 35 feet, requires that in residential districts, any off-street parking for nonresidential uses must comply with the minimum front yard requirements, and that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an R(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and maintain a structure and provide a 20 foot front yard setback, which will require 15 foot variances to the front yard setback regulations, to locate and maintain off-street parking in the front yard

setbacks, which will require variances to the off-street parking regulations, and to locate and maintain a parking area and not provide the required screening, which will require a variance to the off-street parking regulations.

LOCATION: 10727 Midway Road

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUESTS:

The following requests are made on a site that is developed with church use/ structure (Providence Presbyterian Church):

- Variances to the front yard setback regulations of up to 15' is made to:
 - a) construct and maintain structures (dumpster, sanctuary, and classroom) to be located as close as 20' from the site's front property line on the north (Royal Lane) or as much as 15' into this 35' required front yard setback; and
 - b) maintain an existing nonconforming structure located 23' 10" from the site's other front property line on the south (Brookport Drive) or 11' 2" into this required front yard setback.
- Variances to the off-street parking regulations are made to:
 - a) locate and maintain off-street parking spaces in the site's two 35' front yard setbacks on the north along Royal Lane and on the south along Brookport Drive;
 - b) construct and maintain a surface parking area/lot, and not fully meet off-street parking regulations related to required screening of the off-street parking area on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION (front yard and parking variances):

Denial

- While staff recognized at the time of the August 1st staff review team meeting that subject site was unique from most R-16(A) zoned lots with 2 front yard setbacks, and was somewhat irregular in shape, and with easements that limited area that could be further developed beyond the existing church use on the property, staff concluded from the facts submitted by the applicant from the time in which the application was submitted on May 31st to what had been added by the applicant at the time of this staff review team meeting that these features/characteristics on the approximately 186,000 square foot lot zoned R-16(A) did not preclude the applicant from developing it with an expanded church use that could comply with the front setbacks and off-street parking regulations.
- From the facts that the applicant had submitted between when the application was submitted on May 31st and added to by the applicant at the time of the August 1st staff review team meeting, staff had concluded that the applicant had not demonstrated how the features of the site (which is relatively flat, irregular in shape, and according to the application is 4.28 acres in area) preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification – the site is currently developed a church use/structure most of which complies with the Dallas Development Code other than the nonconforming structure aspect of the structure built (according to DCAD) in the 40's located in the 35' Brookport Drive front yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-16(A) (Single family district 16,000 square feet)
<u>North:</u>	R-16(A) (Single family district 16,000 square feet)
<u>South:</u>	R-16(A) (Single family district 16,000 square feet)
<u>East:</u>	R-16(A) (Single family district 16,000 square feet)
<u>West:</u>	R-16(A) (Single family district 16,000 square feet)

Land Use:

The subject site is developed with a church use (Providence Presbyterian Church). The area to the north is developed with a church use, the areas to the east and west are developed with single family uses, and the area to the south is undeveloped.

Zoning/BDA History:

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

GENERAL FACTS /STAFF ANALYSIS (front yard variance):

- The requests for variances to the front yard setback regulations of up to 15' focus on constructing and maintaining an approximately 40 square foot dumpster structure, an approximately 18,500 square foot "future sanctuary" structure, and an approximately 8,900 square foot "new classroom building" structure as close as 20 from one of the site's two front property lines (Royal Lane) or as much as 15' into this 35' required front yard setback, and maintaining an existing nonconforming structure located 23' 10" from the site's other front property line on the south (Brookport Drive) or 11' 2" into this required front yard setback.
- The subject site is zoned R-16(A) which requires a minimum 35' front yard setback.
- The subject site is located at the southwest corner of Royal Lane and Midway Road. The site is bounded by Royal Lane on the north, Midway Road on the east, and Brookport Drive on the south. The site has two 35' front yard setbacks (one on the north along Royal Lane, the other on the south along Brookport Drive) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets. (Midway Road is a side yard where the minimum setback is 15').
- The applicant has submitted site plan denoting the dumpster, future sanctuary, and new classroom structures to be located in the 35' required front yard setback on the north along Royal Lane, and an "existing one story brick" structure in the 35' front yard setback on the south along Brookport Drive.
- According to DCAD records, the "improvement" for property addressed at 10727 Midway Road is structure built in 1941 with 15,735 square feet. Because records show that the main improvement/structure on this site was built in the 40's, it is assumed that the existing "one-story brick building" structure located in the 35' required front yard setback on the south along Brookport Drive is a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant has chosen to seek variance to the front yard setback regulations for both the proposed structures to be located in the 35' required front yard setback on the north along Royal Lane, and the nonconforming existing one-story brick" nonconforming structure in the site's 35' required front yard setback on the south along Brookport Drive.
- The site is relatively flat, irregular in shape, and according to the application is 4.28 acres (or approximately 186,000 square feet) in area. The site is R-16(A) where lots are typically 16,000 square feet. The site developed with a church use has two 35' front yard setbacks and two 15' side yard setbacks. Most lots in this zoning district developed with single family structures have one 35' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback.

- The applicant has submitted a document indicating an existing storm detention area and three easements for storm drainage which along with setbacks creates a buildable area of the property at 61 percent.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances to front yard setback regulations are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.
 - The variances to front yard setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant the requests, and impose the submitted site plan as a condition, the structures in the front yard setbacks would be limited to what is shown on this document– which, in this case, are proposed structures located as close as 20’ from the Royal Lane front property line or as much as 15’ into this 35’ required front yard setback, and an existing nonconforming structure located 23’ 10” from the site’s other front property line on the south (Brookport Drive) or 11’ 2” into this required front yard setback.

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

- The requests for variances to the off-street parking regulations focus on: 1) locating and maintaining off-street parking spaces in the site’s two front yard setbacks (Royal Lane on the north and Brookport Drive on the south); and 2) constructing and maintaining a surface parking area/lot, and not fully meeting off-street parking regulations related to required screening of the off-street parking area/lot on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).
- The subject site is zoned R-16(A) which requires a minimum 35’ front yard setback.
- The subject site is located at the southwest corner of Royal Lane and Midway Road. The site is bounded by Royal Lane on the north, Midway Road on the east, and Brookport Drive on the south. The site has two 35’ front yard setbacks (one on the north along Royal Lane, the other on the south along Brookport Drive) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets. (Midway Road is a side yard where the minimum setback is 15’).
- The subject site is a church or nonresidential use located in a residential zoning district where there are residential uses to the west on property zoned R-16(A).
- The Off-Street Parking Regulations of the Dallas Development Code states the following with regard to off-street parking provisions for residential uses:

- In residential districts, any off-street parking for nonresidential uses must comply with the minimum front yard requirements.
- The submitted site plan denotes a row of off-street parking spaces located in the 35' required front yard setbacks on the north side of the site along Royal Lane and on the south side of the site along Brookport Drive.
- The Off-Street Parking Regulations of the Dallas Development Code states the following with regard to "screening provisions for off-street parking":
 - The owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an agricultural, single family, or multifamily district and the parking area serves a nonresidential use.
 - Screening for off-street parking required must be a brick, stone, or concrete masonry, stucco, concrete, or wood wall that is not less than six feet in height.
- The submitted site plan denotes no screening between the surface parking area/lot and the contiguous residential use zoned R-16(A) to the west of the subject site.
- According to DCAD records, the "improvement" for property addressed at 10727 Midway Road is structure built in 1941 with 15,735 square feet.
- The site is relatively flat, irregular in shape, and according to the application is 4.28 acres (or approximately 186,000 square feet) in area. The site is R-16(A) where lots are typically 16,000 square feet. The site developed with a church use has two 35' front yard setbacks and two 15' side yard setbacks. Most lots in this zoning district developed with single family structures have one 35' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback.
- The applicant has submitted a document indicating an existing storm detention area and three easements for storm drainage which along with setbacks creates a buildable area of the property at 61 percent.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances to off-street parking regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.
 - The variances to off-street parking regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant the requests, and impose the submitted site plan as a condition, the applicant would be permitted to locate and maintain off-street parking spaces in the 35' required front yard setbacks on the north along Royal Lane and on the south along Brookport Drive, and to not provide required screening of the off-street parking area/lot on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).

Timeline:

- May 31, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 11, 2017: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the definition of nonconforming structure and the provision from the Dallas Development Code related to nonconforming structures (51A-4.704(c));
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- July 26, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- No review comment sheets were submitted in conjunction with this application.
- August 4, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B). Note that this information was not factored into the staff recommendation for the variances since it was submitted after the August 1st staff review team meeting..

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm, Dallas, TX
Mark Hossery, 1409 Bella Vista, Dallas, TX

APPEARING IN OPPOSITION: Phyllis Foer, 4170 Brookport, Dallas, TX
Joe Cardinele, 4171 Brookport Dr., Dallas, TX

MOTION #1: Agnich

I move that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

SECONDED: Schulte

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Schulte

I move that the Board of Adjustment, in request No. **BDA 167-086**, hold this matter under advisement until **September 19, 2017**.

SECONDED: Agnich

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Agnich

I move to adjourn this meeting.

SECONDED: Sibley

AYES: 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

3:46 P. M.: Board Meeting adjourned for **August 15, 2017**

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.