

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, SEPTEMBER 19, 2017**

MEMBERS PRESENT AT BRIEFING: Peter Schulte, vice-chair, Gary Sibley, alternate member, Lorlee Bartos, 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, Lloyd Denman, Engineering, Phil Erwin, Chief Arborist, Donna Moorman, Chief Planner and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Peter Schulte, vice-chair, Elizabeth Nelson, regular member, Gary Sibley, alternate member, Lorlee Bartos, alternate member and Philip Sahuc, alternate member

MEMBERS ABSENT FROM HEARING: Michael Gibson, 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 **September 19, 2017** docket.

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**1:03 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.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel August 15, 2017 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2017**

MOTION:           None

The minutes were approved without a formal vote.

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**FILE NUMBER:**     BDA167-018(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Quincy Roberts for a special exception to the fence standards at 6455 Dixie Garden Court. This property is more fully described as Lot 9B, Block 7/8711, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9 foot 6 inch high fence in a required front yard, which will require a 5 foot 6 inch special exception to the fence standards.

**LOCATION:**           6455 Dixie Garden Court

**APPLICANT:**        Quincy Roberts

**REQUEST:**

A request for a special exception to the fence standards related to fence height of 5' 6" is made to maintain a fence/gate (a 6' 6" high metal picket fence with an approximately 5' – 7' high entry gate with 7' high entry columns topped with approximately 2' 6" high lanterns) higher than 4' in height in the site's front yard setback on a site developed with a single family home.

(Note that this application is made on property immediately south of a property where the same applicant seeks a similar special exception to the fence standards from the Board of Adjustment Panel A on September 19<sup>th</sup>: BDA167-019).

**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 (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.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-10(A) (Single family district 7,500 square feet)  
North: PD 226 (Planned Development)  
South: R-10(A) (Single family district 7,500 square feet)  
East: R-10(A) (Single family district 7,500 square feet)  
West: PD 226 (Planned Development)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA167-019, Property located at 10 Dixie Garden Court (the property north of the subject site) On September 19, 2017, the Board of Adjustment Panel A will consider a request for a special exception to the fence standards made to construct and maintain a fence (a 6' 6" high metal picket fence with 7' high columns) higher than 4' in height in the site's front yard setback.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the fence standards related to fence height of 5' 6" focuses on maintaining a 6' 6" high metal picket fence with an approximately 5' – 7' high entry gate with 7' high entry columns topped with approximately 2' 6" high lanterns on a site developed with a single family home.
- The subject site is zoned R-10(A) which requires a 30' 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.
- A site plan and partial elevation of the fence in the front yard setback have been submitted with notations indicating that the proposal reaches a maximum height of 9' 6" for two entry columns that are topped with lanterns.
- The following additional information was gleaned from the submitted site plan:
  - The proposal/existing fence is represented as being approximately 40' in length parallel to the street and 30' in length perpendicular to the street on the south side of the site in the front yard setback.

- The fence proposal is represented as being located approximately on the front property line.
- One single family lot fronts the proposal, a lot that has no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence that appeared to be above 4' in height and located in a front yard setback. This approximately 6' 6" high open metal picket fence is immediately north of the subject site and is the focus of BDA167-019 to be heard by Board of Adjustment Panel A on September 19<sup>th</sup>.
- As of September 8<sup>th</sup>, 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 exception to the fence standards of 5' 6" will not adversely affect neighboring property.
- Granting this special exception to the fence standards of 5' 6" with a condition imposed that the applicant complies with the submitted site plan and partial elevation would require the proposal exceeding 4' in height in the required front yard to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

December 19, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 8, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

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

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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: SEPTEMBER 19, 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 167-018(SL)** 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 site plan and elevation is required.

**SECONDED:** Bartos

**AYES:** 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA167-019(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Quincy Roberts for a special exception to the fence standards at 10 Dixie Garden Court. This property is more fully described as Lot 10, Block 7/8711, and is zoned PD 226, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 7 foot high fence in a required front yard, which will require a 3 foot special exception to the fence standards.

**LOCATION:** 10 Dixie Garden Court

**APPLICANT:** Quincy Roberts

**REQUEST:**

A request for a special exception to the fence standards related to fence height of 3’ is made to maintain a fence (a 6’ 6” high metal picket fence with 7’ high columns) higher than 4’ in height in the site’s front yard setback on a site that is undeveloped.

(Note that this application is made on property immediately north of a property where the same applicant seeks a similar special exception to the fence standards from the Board of Adjustment Panel A on September 19<sup>th</sup>: BDA167-018).

**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 (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.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD 226 (Planned Development)
- North: PD 226 (Planned Development)
- South: R-10(A) (Single family district 7,500 square feet)
- East: R-10(A) (Single family district 7,500 square feet)
- West: PD 226 (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north, east, south, and west are a mix of single family uses and undeveloped land.

**Zoning/BDA History:**

1. BDA167-018, Property located at 6455 Dixie Garden Court (the property south of the subject site) On September 19, 2017, the Board of Adjustment Panel A will consider a request for a special exception to the fence standards made to construct and maintain a fence (a 6’ 6” high metal picket fence with an approximately 5’ – 7’ high entry gate with 7’ high entry columns topped with approximately 2’ 6” high lanterns) higher than 4’ in height in the site’s front yard setback.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the fence standards related to fence height of 3’ focuses on maintaining a 6’ 6” high metal picket fence with 7’ high columns on a site that is undeveloped.
- The subject site is zoned PD 226 which requires a 35’ 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.

- A site plan and partial elevation of the fence in the front yard setback have been submitted with notations indicating that the proposal reaches a maximum height of 7' for columns.
- The following additional information was gleaned from the submitted site plan:
  - The proposal/existing fence is represented as being approximately 75' in length parallel to the street and 35' in length perpendicular to the street on the north side of the site in the front yard setback.
  - The fence proposal is represented as being located approximately on the front property line.
- One single family lot fronts the proposal, a lot that has no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence that appeared to be above 4' in height and located in a front yard setback. This approximately 6' 6" high open metal picket fence with gate and entry gate columns that reach 9' 6" is immediately south of the subject site and is the focus of BDA167-018 to be heard by Board of Adjustment Panel A on September 19<sup>th</sup>.
- As of September 8<sup>th</sup>, 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 exception to the fence standards of 3' will not adversely affect neighboring property.
- Granting this special exception to the fence standards of 3' with a condition imposed that the applicant complies with the submitted site plan and partial elevation would require the proposal exceeding 4' in height in the required front yard to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

- June 22, 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.
- August 8, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 8, 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 August 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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: SEPTEMBER 19, 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 167-019(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 site plan and partial elevation is required.

**SECONDED:** Bartos

**AYES:** 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA167-095(SL)

**BUILDING OFFICIAL’S REPORT:** **BDA167-095(SL)** - Application of Evan Godwin for a special exception to the off-street parking regulations at 804 4th Avenue. This property is more fully described as Lot 19, Block 13/812, and is zoned PD 595 (RS-MU), which requires parking to be provided. The applicant proposes to construct and maintain a structure for an office use, and provide 4 of the required 5 parking spaces, which will require a 1 space special exception to the off-street parking regulations.

**LOCATION:** 804 4th Avenue

**APPLICANT:** Evan Godwin



**REQUEST:**

A request for a special exception to the off-street parking regulations of 1 space is made to construct and maintain an approximately 1,600 square foot structure as an office use, and provide 4 (or 80 percent) of the 5 required off-street parking spaces on a site that is undeveloped.

**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 1 space shall automatically and immediately terminate if and when the office use is 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: PD 595 (RS-MU) (Planned Development)  
North: PD 595 (RS-MU) (Planned Development)  
South: PD 595 (RS-MU) (Planned Development)  
East: PD 595 (RS-MU) (Planned Development)  
West: PD 595 (RS-MU) (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, east and west are undeveloped.

**Zoning/BDA History:**

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

## **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the off-street parking regulations of 1 space focuses on constructing and maintaining an approximately 1,600 square foot structure as an office use, and providing 4 (or 80 percent) of the 5 required off-street parking spaces on a site that is undeveloped.
- The subject site is zoned PD 595 RS-MU that refers to 51(A) with regard to off-street parking requirements.
- The Dallas Development Code requires the following off-street parking requirement:
  - Office use: 1 space per 333 square feet of floor area. (In this particular case, a 1,600 square foot structure for office use would require 5 spaces).
- The applicant states on his application that all employees use alternative methods of transportation, and expected peak capacity does not exceed 50 percent of required spaces.
- The applicant has submitted a document stating among other things that the propose office will have 2 employees both of which bicycle to work.
- 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” use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 1 space (or a 20 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 1 space shall automatically and immediately terminate if and when the office use is changed or discontinued, the applicant could construct and maintain the approximately 1,600 square foot structure as an office use, and provide 4 (or 80 percent) of the 5 required off-street parking spaces on the site.

## **Timeline:**

- June 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.
- August 8, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 8, 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 August 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and

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

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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.

September 9, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 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 167-095(SL)** 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:

- The special exception of one space shall automatically and immediately terminate if and when the office use is changed or discontinued.

SECONDED: **Bartos**

AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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FILE NUMBER: BDA167-101(SL)

**BUILDING OFFICIAL’S REPORT:** Application of David Drinkwater, represented by John Hamilton, for special exceptions to the visual obstruction regulations at 5546 McCommas Boulevard. This property is more fully described as Lot 12, Block 8/2200, and is zoned CD 9, which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 5546 McCommas Boulevard

**APPLICANT:** David Drinkwater  
Represented by John Hamilton

**REQUESTS:**

Requests for special exceptions to the visual obstruction regulations are made to construct and maintain an approximately 8' high solid wood slide gate in the two, 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue on a site developed with a single family home.

**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:**

Approval, subject to the following condition:

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

Rationale:

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CD 9 (Conservation District)  
North: CD 9 (Conservation District)  
South: CD 9 (Conservation District)  
East: CD 9 (Conservation District)  
West: CD 9 (Conservation District)

**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:**

- These requests for special exceptions to the visual obstruction regulations focus on constructing and maintaining an approximately 8' high solid wood slide gate in the two, 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue on a site developed with a single family home.
- 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).
- A site plan and site plan/elevation have been submitted indicating portions of "static door slide gate" located in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections" commenting: "Note: City Code Ch. 48-4 regulates planting trees in the parkway and City Code Ch. 43-93 regulates curb restoration if existing drive is removed".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to complete and maintain an approximately 8' high solid wood slide gate in the two, 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and site plan/elevation would limit the items located in the 20' drive approach visibility triangles into the site from Worcola Avenue to that what is shown on these documents – an approximately 8' high solid wood slide gate.

## **Timeline:**

- June 16, 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.
- August 8, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 8, 2017: The Board Administrator emailed the applicant's representative 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 August 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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.

September 9, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections” commenting: “Note: City Code Ch. 48-4 regulates planting trees in the parkway and City Code Ch. 43-93 regulates curb restoration if existing drive is removed”.

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 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 167-101(SL)** 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 site plan and site plan/elevation is required.

SECONDED: **Bartos**

AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA167-121(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Douglas Denton for a special exception to restore a nonconforming use at 5300 University Hills Boulevard. This property is more fully described as an unplatted 2.2627 acre tract in Block 6900, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming convalescent and nursing home, hospice care, and related institutions use, which will require a special exception to the nonconforming use regulations.

**LOCATION:** 5300 University Hills Boulevard

**APPLICANT:** Douglas Denton

**REQUEST:**

A request for a special exception to restore/reinstate nonconforming use rights for a convalescent and nursing home, hospice care, and related institutions use on the subject site that was discontinued for a period of six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

**STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE:** The Dallas Development Code states that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CR (Community retail)
- North: CR (Community retail)
- South: R-7.5(A) (Single family residential 7,500 square feet)
- East: PD 12 (Planned Development)
- West: PD 522 (Planned Development)

**Land Use:**



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

### **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:**

- This request focuses on restoring/reinstating nonconforming use rights for a convalescent and nursing home, hospice care, and related institutions use that has been discontinued for six months or more in order for the applicant to obtain a Certificate of Occupancy (CO) for this use.
- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.
- The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.
- The site is zoned CR (Community retail) that does not permit a convalescent and nursing home, hospice care, and related institutions use.
- A document has been included in the case file that states the convalescent and nursing home, hospice care, and related institutions use at 5300 University Hills Boulevard has been identified by Building Inspection to be a nonconforming use.
- A Certificate of Occupancy has been included in the case file for a “convalescent and nursing homes and related institutions” at 5300 Houston School Road dba Southhaven Nursing Center on January, 6, 1999.
- According to DCAD records, the “improvements” for the property addressed at 5300 University Hills Boulevard is a 58,555 square foot “convalescent hosp./nursing home” constructed in 1969.
- Building Inspection has stated that these types of special exception requests originate from when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since

the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.

- The applicant has the burden of proof in establishing the following related to the special exception request:
  - There was a clear intent not to abandon the nonconforming convalescent and nursing home, hospice care, and related institutions use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming convalescent and nursing home, hospice care, and related institutions use rights that were lost when the use was abandoned for a period of six months or more.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).

### **Timeline:**

July 18, 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.

August 29, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

August 29, 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 August 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 8<sup>th</sup> 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;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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: SEPTEMBER 19, 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 167-121(SL)** 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:

**SECONDED:** Bartos

**AYES:** 5 – Schulte, Nelson, Sibley, Bartos, 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:
  1. 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
  2. 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:
  1. 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;
  2. 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).

Note that the applicant has not submitted any additional documentation to staff since the August 15, 2017 public hearing.

**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) (August 15, 2017):**

Denial

- While staff recognized at the time of the August 1<sup>st</sup> 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 31<sup>st</sup> 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 31<sup>st</sup> and added to by the applicant at the time of the August 1<sup>st</sup> 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.

**STAFF RECOMMENDATION (front yard and parking variances) (September 20, 2017):**

Denial

- While staff recognized 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 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.
- Staff 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:**

Site: R-16(A) (Single family district 16,000 square feet)  
North: R-16(A) (Single family district 16,000 square feet)  
South: R-16(A) (Single family district 16,000 square feet)  
East: R-16(A) (Single family district 16,000 square feet)  
West: 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 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 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 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> 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 August 15<sup>th</sup> staff recommendation for the variances since it was submitted after the August 1<sup>st</sup> staff review team meeting.

August 15, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on September 19, 2017.

August 22, 2017: The Board Administrator wrote the applicant a letter of the board's action; the August 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials. (Note that the applicant has not submitted any additional documentation to staff since the August 15, 2017 public hearing).

September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction 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:** 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#2: Schulte

I move that the Board of Adjustment, in request No. **BDA 167-086(SL)**, 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)

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 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

MOTION #1: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 167-086(SL)** on application of Robert Baldwin, **grant** the variance to the off-street parking screening requirements requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.

SECONDED: Sahuc  
AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc  
NAYS: 0 -  
MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 167-086(SL)** on application of Robert Baldwin, **grant** the variance to the off-street parking regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.

SECONDED: **Bartos**

AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #3: **Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 167-086(SL)** on application of Robert Baldwin, **grant** the 15-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required as it relates to dumpster and nonconforming structure.

SECONDED: **Sahuc**

AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #4: **Schulte**

I move to amend the previous motion made to amend the condition.

SECONDED: **Bartos**

AYES: 4 – Schulte, Nelson, Sibley, Bartos, Sahuc

NAYS: 1 - Sahuc

MOTION PASSED: 4 – 1

MOTION #5: **Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 167-086(SL)** on application of Robert Baldwin, **grant** the 15-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required as it relates to dumpster only.

SECONDED: Sahuc  
AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc  
NAYS: 0 -  
MOTION PASSED: 5 – 0 (unanimously)

\*\*\*\*\*

MOTION: Nelson

I move to adjourn this meeting.

SECONDED: Bartos  
AYES: 5 – Schulte, Nelson, Sibley, Bartos, Sahuc  
NAYS: 0 -  
MOTION PASSED: 5 – 0 (unanimously)

**2:06 P. M.:** Board Meeting adjourned for **September 19, 2017**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

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**Note:** For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.