

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1 AUDITORIUM  
MONDAY, SEPTEMBER 19, 2016**

MEMBERS PRESENT AT BRIEFING: Joe Carreon, regular member, Marla Beikman, regular member, Peter Schulte, Acting Chair, and Phil Foster, regular member

MEMBERS ABSENT FROM BRIEFING: Bruce Richardson, Chair

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

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Mary McCullough, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Phil Erwin, Chief Arborist, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Mary McCullough, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Phil Erwin, Chief Arborist, and Trena Law, Board Secretary

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**1:05P.M.** The Board of Adjustment staff conducted a briefing and Public Hearing on the Board of Adjustment's **September 19, 2016** docket.

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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**

Approval of the Board of Adjustment Panel C, August 15, 2016 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2016**

MOTION: None

The minutes were approved without a formal vote.

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**FILE NUMBER:** BDA156-089(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Paul S. Kim for a special exception to the fence height regulations at 13925 Hillcrest Road. This property is more fully described as a 5.47 acre tract of land in Block 8177, and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 13925 Hillcrest Road

**APPLICANT:** Paul S. Kim

**REQUEST:**

A request for a special exception to the fence height regulations of 4’ is made to construct and maintain an 8’ high solid wood fence with two recessed entryways with 8’ high sliding metal gates flanked by 8’ stone entry columns on a site developed with a single family home. (Note that the applicant stated in an August 20<sup>th</sup> email to the Board Administrator that the overall fence height of 8’ 0” consists of a 7’ 6” fence on top of a 6” gap at the base – that the 6” gap is a requirement for compliance with the flood plain regulations).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences 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 height regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

1. BDA145-080, Property at 13925 Hillcrest Road (the subject site)      On September 21, 2015, the Board of Adjustment Panel B granted a request for a special exception to fence height regulations of 4' and imposed the following condition: compliance with the submitted revised site plan/elevation is required.  
The case report stated that the request was made to construct and maintain an 8' high solid wood fence with two recessed entryways that include 8' high stucco walls, 8' high sliding gates with 8' high stone columns on a site developed with a single family home.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the fence height regulations of 4' focuses on constructing and maintaining a an 8' high solid wood fence with two recessed entryways that include 8' high sliding gates flanked by 9' stone entry columns on a site developed with a single family home. (Note that the applicant stated in an August 20<sup>th</sup> email to the Board Administrator that the overall fence height of 8' 0" consists of a 7' 6" fence on top of a 6" gap at the base – that the 6" gap is a requirement for compliance with the flood plain regulations).
- 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/elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 8’.
- The applicant has stated that this application is the same proposal/application that was granted by the Board of Adjustment Panel C in September of 2015, and that this application is filed only because the applicant did not file for a building permit within 180 days from the Board’s favorable action of September 21, 2015.
- The following additional information was gleaned from the submitted site plan/elevation:
  - The proposal is represented as being approximately 200’ in length parallel to the street and approximately 27’ and 40’ perpendicular to the street on the south and north sides of the site, respectively, in the front yard setback.
  - The fence proposal is represented to be located approximately 0 – 4’ from the front property line or about 11’ - 15’ from the pavement line.
  - The recessed entryways are represented to be located approximately 12’ – 14’ from the front property line or about 21’ – 23’ from the pavement line.
- The proposal is located on the site where two lots have direct frontage to it, neither of which have fences in their front yards over 4’ in height.
- The Board Administrator conducted a field visit of the site and surrounding area along Hillcrest Road (approximately 400’ north and south) and noted one other fence above 4 feet high which appeared to be located in a front yard setback – this being an approximately 9’ high fence immediately north of the subject site with no recorded board of adjustment history.
- As of September 9<sup>th</sup>, 2016, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4’ will not adversely affect neighboring property.
- Granting this special exception of 4’ with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4’ in height in the front yard setback to be construct and maintained in the location and of the heights and materials as shown on this document.
- Note that if the Board were to grant the applicant’s request for a special exception to the fence height regulations, and impose the submitted site plan/elevation as a condition, no additional relief would be provided to the applicant regarding any existing/proposed noncompliance on the subject site to any code provision including but not limited to flood plain regulations.

**Timeline:**

- May 31, 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 4, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. 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.”

- August 5, 2015: 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 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 9<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 6, 2016: 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 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, the Sustainable Development and Construction Department Project Engineer, 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, 2016**

**APPEARING IN FAVOR:** Helena Kim, 13925 Hillcrest, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** Schulte

I move that the Board of Adjustment, in Appeal No. **BDA156-089**, on application of Paul S. Kim, **grant** the request to construct and maintain an 8-foot-high fence in the property’s front yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Beikman**

**AYES:** 4 –Carreon, Schulte, Beikman, Foster

**NAYS:** 1 - Richardson

**MOTION PASSED:** 4– 1

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**FILE NUMBER:** BDA156-084(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Amin Mawani, represented by Aslam Durrani, for a special exception to the landscape regulations at 2318 Stutz Drive. This property is more fully described as Lot 19B, Block D/2371, and is zoned MU-2, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 2318 Stutz Drive

**APPLICANT:** Amin Mawani  
Represented by Aslam Durrani

**REQUEST:**

A special exception to the landscape regulations is made to construct and maintain a multifamily development on a site currently undeveloped, and not fully meet the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation regulations 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, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article;
- and

- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required with the condition that the City will require the four site trees in the rear yard to be installed outside the 5’ utility easement unless tree locations are approved by the local utility before installation.

Rationale:

- Staff concurs with the Chief Arborist and recommends approval of the proposed landscape plan because strict compliance with the street tree and design standard requirements for this site will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring properties given the location of the property and the density of development.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-2 (Mixed use)(deed restricted)\*  
North: MU-2 (Mixed use)(deed restricted)  
South: IM (Industrial/manufacturing)  
East: MU-2 (Mixed use)(deed restricted)  
West: MU-2 (Mixed use)(deed restricted)

- \* The Board Administrator forwarded a copy of the deed restrictions on this property that pertain to an “avigation easement” to the applicant. The applicant responded by representing that his request to the Board for a special exception to the landscape regulations in no way deviates from these deed restrictions. (Note that the maximum permitted height in the MU-2 zoning district is 135 feet with additional height allowed with retail development).

**Land Use:**

The subject site is undeveloped. The areas to the north and west are developed with residential uses; the area to the east is undeveloped, and the area to the south is with a child care facility 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 for a special exception to the landscape regulations focuses on developing the site with multifamily use and not fully meeting the landscape regulations, more specifically not providing the required number of street trees and design standards.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B). The memo states how this request is triggered by a new construction of commercial development.
- The Chief Arborist's memo stated that the proposed alternate landscape plan is deficient in the following:
  1. Street trees – a minimum of 2 large trees are required within 30' of the curb.
  2. Design standard – one additional design standard is required by ordinance.
- The Chief Arborist's memo listed the following factors for consideration:
  1. The property is platted with a narrow driveway which is completely paved to Stutz Road, and is established between two previously developed properties which share this existing driveway section for access to the public right-of-way.
  2. The bulk of the property will be developed with impervious surface and building structures. Most of the parking appears to be enclosed within the structures. The enclosures, and screening of parking from the street by the adjacent lot, technically acts as one design standard.
  3. The site meets all other minimum landscape requirements except for one design standard. The only other suitable option for a design standard which may apply with the available space could be enhanced vehicular pavement for a minimum of 25% of the vehicular paved surface on the total lot. However, the new paved area is set away from the street and would provide minimal appearance improvement from street view and not match the existing drive closer to the street.
    - The City of Dallas Chief Arborist recommends approval of the proposed alternate landscape plan because full compliance with the requirements of Article X will unreasonably burden the use of the property. The Chief Arborist states that location of the property and density of development suggests the reduced landscaping will not adversely affect neighboring property. The Chief Arborist states as a condition, the City will require the four site trees in the rear yard to be installed outside the 5' utility easement unless tree locations are approved by the local utility before installations.
- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.



- If the Board were to grant this request and impose the submitted landscape plan as a condition to the request, the site would be provided exception from full compliance with the required number of street trees and design standards on the subject site.

**Timeline:**

- June 22, 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 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 5, 2016: 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 9<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.”
- August 18, 2016: The Board Administrator emailed the applicant a copy of deed restrictions on the property, and requested that he represent in an email response that his request to the board of adjustment for a special exception to the landscape regulations in no way deviates from these restrictions.
- August 19, 2016: The applicant emailed the Board Administrator and represented that his request to the board of adjustment for a special exception to the landscape regulations in no way deviates from these restrictions.
- August 22, 2016: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official’s report to the Board Administrator (see Attachment A).
- September 6, 2016: 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 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, the Sustainable Development and Construction

Department Project Engineer, and the Assistant City Attorney to the Board.

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

September 9, 2016: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2016**

APPEARING IN FAVOR: Aslam Durrani, 2318 Stutz Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 156-084**, on application of Amin Mawani, **grant** the special exception to the landscape regulations in the Dallas Development Code because our evaluation of the property and the testimony shows that strict compliance with the requirements will unreasonably burden the use of the property and the 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 alternate landscape plan is required. Additionally, the four site trees in the rear yard must be installed outside the five-foot utility easement unless tree locations are approved by the local utility before installations.

SECONDED: **Beikman**

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA156-085(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations at 2911 Turtle Creek Boulevard. This property is more fully described as Lot 3, Block A/1031, and is zoned PD-193 (O-2), which requires a front yard setback of 20 feet. The applicant proposes to construct and/or maintain a structure and provide an 8 foot front yard setback, which will require a 12 foot variance to the front yard setback regulations.

**LOCATION:** 2911 Turtle Creek Boulevard

**APPLICANT:** Robert Baldwin of Baldwin and Associates

**REQUEST:**

A request for a variance to the front yard setback regulations of up to 12' 3" is made for a "patio roof structure with retractable ceiling on existing concrete foundation", a portion of which is located/is proposed to be located as close as 7' 9" from the site's Gillespie Street front property line or as much as 12' 3" into this 20' front yard setback on a site developed with an office tower/use (Park Place on Turtle Creek). More specifically, the request is made to maintain an existing concrete patio structure in the Gillespie Street 20' front yard setback and to add and maintain a retractable awning/roof "structure" over it.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance in this case made for a “patio roof structure with retractable ceiling on existing concrete foundation” on a site already developed with an office tower/use. Even though this site is slightly sloped, irregular in shape, and has two front yard setbacks, these characteristics do not create hardship or preclude the applicant from developing it in a manner commensurate with other development found in the same PD No. 193 (O-2) zoning district. The subject site is developed with an office use/office tower structure where the physical characteristics of it do not warrant a variance for the existing patio recently added to the tower and/or the proposed retractable ceiling structure to be added over it in the front yard setback.
- The applicant had not substantiated how the physical features of the slightly sloped, somewhat irregularly shaped, 1.243 acre (or approximately 54,000 square feet) subject site with two front yard setbacks preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (O-2) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD 193 (O-2) (Planned Development District, Office)
- North: PD 193 (O-2) (Planned Development District, Office)
- South: PD 193 (O-2) (Planned Development District, Office)
- East: PD 193 (O-2) (Planned Development District, Office)
- West: PD 374 (Planned Development District)

**Land Use:**

The subject site is developed with an office tower/use (Park Place on Turtle Creek). The areas to the north, east, and south are developed with what appears to be mostly office uses, and the area to the west is developed with hotel and residential 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:**

- This request for a variance to the front yard setback regulations of 12' 3" focuses on maintaining an existing concrete patio, and adding and maintaining a retractable awning/roof "structure" over the concrete patio as close as 7' 9" from the site's Gillespie Street front property line or as much as 12' 3" into the 20' front yard setback on a site developed with an office tower/use (Park Place on Turtle Creek).
- The property is located at the north corner of Turtle Creek Boulevard and Gillespie Street.
- The property is located in the Turtle Creek Environmental Corridor.
- The site has two front yard setbacks given its corner location and being zoned PD 193 (O-2) zoning (and not zoned single family, duplex, or agricultural).
- The minimum front yard setback for "other permitted structures" on lots zoned PD No. 193 (O-2 Subdistrict) is 20'.
- The Turtle Creek Environmental Corridor regulations state that at the intersections of Turtle Creek Boulevard with Blackburn Street, with Lemmon Avenue, with Hall Street, with Cedar Springs Road, and the intersection of Turtle Creek Drive with Gillespie Street, no structure shall be constructed to such intersection than an imaginary line formed between points on each curb line 100 feet from such intersection.
- The subject site has a 20' front yard setback on Gillespie Street, and must additionally adhere to the Turtle Creek Environmental Corridor regulation which states no structure shall be constructed to closer to the Turtle Creek Drive/Gillespie Street intersection than an imaginary line formed between points on each curb line 100 feet from this intersection.
- At the time of the September 6<sup>th</sup> staff review team meeting, only a partial site plan had been submitted denoting that the "patio roof structure with retractable ceiling on an existing concrete foundation" is located 8' 4" from the Gillespie Street property line or 12' into this required 20' front yard setback.
- On September 6<sup>th</sup>, the applicant concurred with the Building Inspection Senior Plans Examiner/Development Code Specialist's discovery on drawings he received from the applicant that morning that the elevation drawing scaled to indicate the patio, with a labelled "granite veneer facing", would be 7'-9" from the indicated property line which would result in a 12'-3" encroachment into the required 20' front yard setback. As a result, the request for variance was increased from what was originally applied for/submitted in June from a 12' variance to a 12' 3" variance.
- The partial site plan submitted by the applicant represents that the "patio roof structure with retractable ceiling on existing concrete foundation" is approximately 82.5' in length and approximately 14' in width or approximately 1,100 square feet in area of which about 90 percent (or approximately 1,000 square feet) is located/proposed to be located in the Gillespie Street 20' front yard setback.
- Note that while the site has a front yard setback on Turtle Creek Boulevard, no part of this application is made to maintain or construct/maintain a structure in the Turtle Creek Boulevard front yard.
- According to DCAD records, the "improvements" at 2911 Turtle Creek Boulevard is an "office building" that is 188,430 square feet in area built in 1985.

- The subject site is slightly sloped, somewhat irregular in shape, and is according to the application, 1.243 acres (or approximately 54,000 square feet) in area. The site is zoned PD 193 (O-2). The site has two front yard setbacks which is typical of any lot that with two street frontages that is not zoned single family, duplex, or agricultural.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance 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 variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (O-2) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (O-2) zoning classification.
- If the Board were to grant the variance request and impose the submitted partial site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document – an existing concrete patio structure with a retractable awning/roof “structure” over it of which portions are/would be located as close as 7’ 9” from the Gillespie Street front property line or as much as 12’ 3” into this 20’ front yard setback.
- Note that if the Board were to grant the applicant’s request for a variance to the front yard setback regulations, the applicant is aware of the fact that this would not provide any relief to any existing or proposed noncompliance on the site with regard to the PD 193 landscape requirements, the Turtle Creek Environmental Corridor provisions, off-street parking regulations, and visual obstruction regulations.

**Timeline:**

- June 22, 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 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 5, 2016: 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 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis;

- and the September 9<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."

August 31,  
September 6 & 7,  
2016:

The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachments A, B, C, and D).

September 6, 2016: 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 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, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2016**

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm #B, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 156-085**, on application of Robert Baldwin., **deny** the variances requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Beikman**

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**MOTION: Richardson**

I move to adjourn this meeting.

**SECONDED: Schulte**

**AYES:** 5 – Richardson, Carreon, Schulte, Beikman, Foster

**NAYS:** 0 -

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

**1:24 P. M.** - Board Meeting adjourned for **September 19, 2016**

\_\_\_\_\_  
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.