

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
TUESDAY, SEPTEMBER 22, 2020**

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Jay Narey, regular member

MEMBERS ABSENT FROM BRIEFING: None.

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Anna Holmes, Asst. City Atty., Oscar Aguilera, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, David Nevarez, Engineering Division, Neva Dean, Assistant Director, and Kris Sweckard, Director.

MEMBERS PRESENT AT HEARING: Cheri Gambow, Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Jay Narey, regular member.

MEMBERS ABSENT FROM HEARING: None.

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Anna Holmes, Asst. City Atty., Oscar Aguilera, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, David Nevarez, Engineering Division, Neva Dean, Assistant Director, and Kris Sweckard, Director.

11:03 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 22, 2020** docket.

1:00 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel A, August 18, 2020 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: September 22, 2020

MOTION: Lamb

Approval of the Board of Adjustment Panel A, August 18, 2020 public hearing minutes.

SECONDED: Adams

AYES: 5 – Gambow, Lamb, Adams, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-080(OA)

BUILDING OFFICIAL’S REPORT: Application of Taylor Tompkins for a special exception to the sign regulation at 3720 Walnut Hill Lane. This property is more fully described as Block 12/6178, and is zoned a CR Community Retail District, which prohibits non-monument signs within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The applicant proposes to construct a detached premises non-monument sign on a nonresidential premises within 250 feet of either private property in a non-business zoning district or a public park of more than one acre, which will require a special exception to the sign regulation

LOCATION: 3720 Walnut Hill Lane

APPLICANT: Taylor Tompkins

REQUEST: A request for a special exception to the sign regulations is made to place and maintain a non-monument sign within the 250-foot distance requirement from a residential property on a site developed with retail uses (multi-tenant).

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR A NON-MONUMENT SIGN WITHIN 250 FEET OF PRIVATE PROPERTY IN A NON-BUSINESS ZONING DISTRICT:

Section 51A-7.304(b)(3) states that the Board of Adjustment may grant a special exception to allow a non-monument sign within 250 feet of private property in a non-business zoning district 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 sign regulations to allow a non-monument sign within 250 feet of private property in a non-business

zoning district 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: CR (Community Retail District)
North: CR (Community Retail District)
South: R-7.5(A) (Single Family Residential District)
East: R-7.5(A) & R-10(A) (Single Family Residential Districts)
West: R-7.5(A) (Single Family Residential District) & NO (A) (Neighborhood Office District)

Land Use:

The site is developed with retail uses. The areas to the north are developed with commercial uses; the areas to the south, and east are developed with single family uses; the areas to the west are developed with single family and office uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

The request focuses on placing and maintaining a non-monument sign within 250 feet from residential property on a site developed with retail uses. This property is a shopping mall that was impacted by the tornado last year. The sign that displayed many of the businesses located at this shopping mall was destroyed by the tornado late last year. Since the applicant is modifying his detached multi-tenant sign, the applicant loses any nonconforming rights and is required to comply with the current code

The Dallas Development Code states non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park of more than one acre.

The applicant has submitted a site plan and sign elevation. The site plan notes that the signboard of the proposed sign would be oriented to face northeast and northwest. The sign is visible to the non-business zoning district immediately to the east of the subject site.

The subject sign is located approximately 230 feet from the nearest residential lot located east of the subject site. The applicant is placing a new multi-tenant sign on two 24-inch aluminum pole covers with 10 by 0.365-inch pipes in order to advertise the retail tenants at the shopping mall.

In October of 2004, the sign regulations were amended in ways that added the provision the applicant is seeking an exception from – non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park more than one acre.

The applicant submitted site plan and elevation document stating, among other things, that the proposed two-tenant sign will be a 200-square-foot illuminated LED cabinet.

The applicant has the burden of proof in establishing the following:

- That allowing a non-monument sign within 250 feet of private property in a non-business zoning district when, in the opinion of the board, the special exception will not adversely affect neighboring property.

If the board were to grant this request and impose the submitted site plan as a condition to the request, the sign would be held to the location as shown on this plan

- a site plan that notes that the signboard of the proposed replacement sign would be oriented to face northeast and northwest of the subject site.

Staff does not recommend imposing any sign elevation as a condition to this request since granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code (i.e. height, effective area, or setback requirements) other than allowing a non-monument sign within 250 feet of private property in a non-business zoning district.

TIMELINE:

- July 23, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- August 18, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- August 19, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 2, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the September 11, 2020 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 4, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearing.

The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: September 22, 2020

APPEARING IN FAVOR: Taylor Tompkins 1308 Briar Dr. Bedford, TX

APPEARING IN OPPOSITION: Raul Lozano 9966 Marsh Ln. Dallas, TX.

MOTION: Narey

I move that the Board of Adjustment, in Appeal No. BDA 190-080, on application of Taylor Tompkins, **grant** the request of this applicant to locate one non-monument sign within 250 feet of private property in a non-business zoning district as a special exception to the sign regulations contained 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 is required.

SECONDED: Halcomb

AYES: 5 – Gambow, Adams, Halcomb, Lamb, Narey

NAYS: 0 -

MOTION PASSED: 5-0 (unanimously)

FILE NUMBER: BDA190-084(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the sign regulations at 5535 W. Lovers Lane. This property is more fully described as Lot 4, Block1/5012, and is zoned a CR Community Retail District, which prohibits non-monument signs within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The applicant proposes to construct a detached premises non-monument sign on a nonresidential premise within 250 feet of either private property in a non-business zoning district or a public park of more than one acre, which will require a special exception to the sign regulation.

LOCATION: 5535 W. Lovers Lane

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST: A request for a special exception to the sign regulations is made to place and maintain a non-monument sign within the 250-foot distance requirement from a residential property on a site developed with retail uses (two prospective tenants).

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR A NON-MONUMENT SIGN WITHIN 250 FEET OF PRIVATE PROPERTY IN A NON-BUSINESS ZONING DISTRICT:

Section 51A-7.304(b)(3) states that the Board of Adjustment may grant a special exception to allow a non-monument sign within 250 feet of private property in a non-business zoning district 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 sign regulations to allow a non-monument sign within 250 feet of private property in a non-business zoning district 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: CR (Community Retail District)
North: R-7.5(A) (Single Family Residential District)
South: CR (Community Retail District)
East: CR (Community Retail District)
West: CR (Community Retail District)

Land Use:

The site is being developed with retail uses. The areas to the north are developed with single family uses; the areas to the south, east and west are developed with retail uses.

Zoning/BDA History:

- | | |
|---|---|
| 1. BDA190-063, Property located at 5535 W. Lovers Lane (subject property) | On June 23, 2020, the Board of Adjustment Panel A denied a request for a special exception to the sign regulations without prejudice. |
|---|---|

The request was to place and maintain a non-monument sign within the 250-foot distance requirement from a residential property on a site developed with retail uses (two prospective tenants).

2. BDA190-006, Property located at 5555 W. Lovers Lane (property located east of the subject site)

On January 21, 2020, the Board of Adjustment Panel A granted your request for a special exception to the sign regulations, subject to compliance with the submitted plan.

The request was to place and maintain a non-monument sign within the 250-foot distance requirement from a residential property on a site developed with retail uses.

GENERAL FACTS/STAFF ANALYSIS:

The request focuses on placing and maintaining a non-monument sign within 250 feet from residential property on a site being developed with retail uses (two prospective tenants).

The Dallas Development Code states non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park of more than one acre.

The applicant has submitted a site plan and sign elevation. The site plan notes that the signboard of the proposed sign would be oriented to face east and west. The sign is not visible to the non-business zoning district immediately north of the subject site. The site location was moved to the east side of the lot. Previously, the sign was proposed to be on the west side of the lot.

The subject sign is located approximately 200 feet from the nearest residential lot located north of the subject site. The applicant is placing a new two-tenant sign on a steel pipe (pole) in order to advertise these new retail tenants.

In October of 2004, the sign regulations were amended in ways that added the provision the applicant is seeking an exception from – non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park more than one acre.

The applicant submitted a revised site plan and elevation document stating, among other things, that the proposed two-tenant sign will be a 64-square-foot flag mount illuminated LED cabinet.

The applicant has the burden of proof in establishing the following:

- That allowing a non-monument sign within 250 feet of private property in a non-business zoning district when, in the opinion of the board, the special exception will not adversely affect neighboring property.

If the board were to grant this request and impose the submitted site plan as a condition to the request, the sign would be held to the location as shown on this plan

- a site plan that notes that the signboard of the proposed replacement sign would be oriented to face east and west, and not to the non-business zoning district immediately north of the subject site.

Staff does not recommend imposing any sign elevation as a condition to this request since granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code (i.e. height, effective area, or setback requirements) other than allowing a non-monument sign within 250 feet of private property in a non-business zoning district.

TIMELINE:

July 28, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

August 18, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

August 19, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the September 2, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the September 11, 2020 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 4, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: September 22, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B, Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: **Lamb**

I move that the Board of Adjustment in Appeal No. BDA 190-084, **hold** this matter under advisement until **October 20, 2020**.

SECONDED: **Adams**

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

(Motion 1st: Failed because lack of a second- deny w/o prej)

(Motion 2nd: Failed to Grant)

FILE NUMBER: BDA190-087(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the parking regulations at 3305 Dilido Road. This property is more fully described as Lot 4, Block 7374, and is zoned an MU-1 Mixed Use District, which requires parking to be provided. The applicant proposes to maintain an existing nonresidential structure for a retirement housing use, and provide 100 of the required 131 parking spaces, which will require a 31-space special exception (24 percent reduction) to the parking regulation.

LOCATION: 3305 Dilido Road

APPLICANT: Baldwin Associates Represented by Rob Baldwin

REQUEST:

A request for a special exception to the off-street parking regulations of 31 spaces is made to maintain a retirement housing use and provide 100 of the 131 off-street parking spaces required by code.

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

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For 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 31 spaces shall automatically and immediately terminate if and when the retirement housing use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated that the applicant meets the standards established by Section 51A-4.311.

BACKGROUND INFORMATION:

Zoning:

Site: MU-1 (Mixed Use District)
North: MU-1 (Mixed Use District) & CR (Community Retail District)
South: LO-1 (Limited Office District)
East: LI (Light Industrial District)
West: R-7.5(A)(Single Family District)

Land Use:

The subject site serves as a retirement house use and assisting living facility. The areas to the south, east, and north are developed with industrial and commercial uses; the area to the west is developed with single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the off-street parking regulations of 31 spaces focuses on constructing and maintaining a retirement housing use and providing 100 of the 131 off-street parking spaces required by code.

Chapter 51A-4.209 (5.2) retirement housing requires the following off-street parking requirement:

- (A) Definition: A residential facility principally designed for persons 55 years of age or older. This use does not include a “convalescent and nursing homes, hospice care, and related institutions” use, which is defined as a separate main use in Section 51A-4.204(8).
- (B) Districts permitted: By right in CH, multifamily, central area, and mixed-use districts. By SUP only in townhouse and urban corridor districts.
- (C) Required off-street parking: One space per dwelling unit or suite.

The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections.”

The applicant has the burden of proof in establishing the following:

- The parking demand generated by the proposed hotel use does not warrant the number of off-street parking spaces required, and
- The special exception of 31 spaces (or a 24 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

If the board were to grant this request and impose the condition that the special exception of 31 spaces shall automatically and immediately terminate if and when the retirement housing use changes or discontinues, the applicant would be allowed to maintain the structures on the site with this specific use with the specified square footage, and provide 100 of the 131 code required off-street parking spaces.

Timeline:

- July 29, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- August 18, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel A.
- August 20, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 2, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the September 11, 2020 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 4, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable

Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

September 4, 2020: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Recommends Approval".

BOARD OF ADJUSTMENT ACTION: September 22, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St., Ste. B Dallas, TX.

APPEARING IN OPPOSITION: None.

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-087, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to provide 100 off-street parking spaces as a special exception to the off-street parking regulations contained in the Dallas Development Code, as amended, which require 131 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a retirement housing use only.

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

The special exception of 31 spaces shall automatically and immediately terminate if and when a retirement housing use is changed or discontinued.

SECONDED: Narey

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-044(OA)

BUILDING OFFICIAL’S REPORT: Application of Brian Baughman for a special exception to the sign regulations at 5500 Greenville Avenue. This property is more fully described as Block 1/5409 and is zoned an MU-3 Mixed Use District, which limits the number of detached signs on a premises to one per street frontage other than expressways and allows only one detached sign for every 450 feet of frontage. The applicant proposes to construct and maintain one additional detached premises sign, on a nonresidential premises, which will require a special exception to the sign regulations.

LOCATION: 5500 Greenville Avenue

APPLICANT: Brian Baughman

REQUEST:

A request for a special exception to the sign regulations is made to remodel and maintain an existing additional detached premises sign on a site that is developed with a shopping mall.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:

Section 51A-7.703(d)(2) of the Dallas Development Code states that the Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on a premises in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STAFF RECOMMENDATION (additional detached sign):

Approval

Rationale:

- Staff concluded that the applicant has substantiated that strict compliance with the requirement of the sign regulations will result in financial hardship and inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed Use District)

North: MU-3 (Mixed Use District)

East: PD No. 916 ((Planned Development District) & MU-3 (Mixed Use District)

South: PD No. 610 ((Planned Development District)

West: MU-3 (Mixed Use District)

Land Use:

The site is developed with a mix of retail and personal service uses. The area to the north, south, east and west are developed with mixed use and multifamily uses.

Zoning/BDA History:

There have 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 (additional detached sign):

The property consists of over 15.79 acres of land developed as with a mix of retail and personal service uses. The request for a special exception to the sign regulations focuses on the remodeling and maintenance of an additional sign at the frontage along Greenville Avenue.

Section 51A-7.304(b) (4) of the Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways. The size of the property is not taken into account.

The submitted site plan indicates the location of two detached non-monument signs, (represented as “existing sign number one and number two”) on the site’s Greenville Avenue frontage, hence this request for a special exception to the sign regulations for an additional detached sign. A sign elevation denoting the second detached non-monument sign has been submitted.

The applicant submitted a document (see attachment A) that substantiates that strict compliance with the requirement of the sign regulations will result in financial hardship and inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

The applicant has the burden of proof in establishing the following:

- That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the street frontage) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

If the board were to approve the request for a special exception to the sign regulations, the board may consider imposing a condition that the applicant complies with the submitted site plan and sign elevation.

Timeline:

February 7, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

March 17, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

March 23, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; April 28th deadline to submit additional evidence for staff to factor into their analysis; and the June 3th deadline to submit additional evidence for staff to factor into their analysis; and the June 12th 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."

June 5, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included the following: the Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

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

June 23, 2020: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application request until the next public hearing to be held on August 18, 2020 to give the applicant the opportunity to provide support for this request.

June 25, 2020: The Board Administrator wrote the applicant a letter of the board's action; the July 28 deadline to submit additional evidence for staff to factor into their analysis; and the August 7th deadline to submit additional evidence to be incorporated into the Board's docket materials.

July 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board, and Mike Martin and Jason Pool Building Inspection.

August 18, 2020: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application request until the next public hearing to be held on September 22, 2020 to give the applicant the opportunity to provide support for this request.

September 1, 2020: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

September 4, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: June 23, 2020

APPEARING IN FAVOR: Brian Baughman 125 Hillside Dr. Greenville, SC

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment in request No. BDA 190-044, **hold** this matter under advisement until **August 18, 2020.**

SECONDED: Narey

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

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

BOARD OF ADJUSTMENT ACTION: August 18, 2020

APPEARING IN FAVOR: Brian Baughman 125 Hillside Dr. Greenville, SC

APPEARING IN OPPOSITION: None

MOTION: **Lamb**

I move that the Board of Adjustment in request No. BDA 190-044, **hold** this matter under advisement until **September 22, 2020.**

SECONDED: **Halcomb**

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey.

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: September 22, 2020

APPEARING IN FAVOR: Brian Baughman 125 Hillside Dr. Greenville, SC

APPEARING IN OPPOSITION: None.

MOTION: **Narey**

I move that the Board of Adjustment, in Appeal No. BDA 190-044, on application of Brian Baughman, **grant** the request of this applicant to construct and/or maintain one additional detached premise sign on a nonresidential premise as a special exception to the sign regulations contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

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 sign elevation is required.

SECONDED: **Adams**

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-088(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the parking regulations at 3205 Dildo Rd. This property is more fully described as Lot 5, Block 7374, and is zoned an MU-1 Mixed Use District, which requires parking to be provided. The applicant proposes to maintain a nonresidential structure for a

retirement housing use, and provide 30 of the required 39 parking spaces, which will require a nine-space special exception (23 percent reduction) to the parking regulation.

LOCATION: 3205 Dilido Road

APPLICANT: Baldwin Associates Represented by Rob Baldwin

REQUEST:

A request for a special exception to the off-street parking regulations of 9 spaces is made to maintain a retirement housing use and provide 30 of the 39 off-street parking spaces required by code.

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

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

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated that the applicant meets the standards established by Section 51A-4.311.

BACKGROUND INFORMATION:

Zoning:

Site: MU-1 (Mixed Use District)
North: TH-3(A) (Townhouse District)
South: LO-1 (Limited Office District)
East: LI (Light Industrial District)
West: CR (Community Retail District)

Land Use:

The subject site serves as the retirement house use and assisting living facility. The area to the south, east, and north are developed with industrial and commercial uses; the areas to the west are developed with single family residential.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the off-street parking regulations of nine spaces focuses on constructing and maintaining a retirement housing use and providing 30 of the 39 off-street parking spaces required by code.

Chapter 51A-4.209 (5.2) retirement housing requires the following off-street parking requirement:

- (A) Definition: A residential facility principally designed for persons 55 years of age or older. This use does not include a “convalescent and nursing homes, hospice care, and related institutions” use, which is defined as a separate main use in Section 51A-4.204(8).
- (B) Districts permitted: By right in CH, multifamily, central area, and mixed-use districts. By SUP only in a townhouse and urban corridor districts.
- (C) Required off-street parking: One space per dwelling unit or suite.

The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.

The applicant has the burden of proof in establishing the following:

- The parking demand generated by the proposed hotel use does not warrant the number of off-street parking spaces required, and
- The special exception of 31 spaces (or a 24 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

If the board were to grant this request and impose the condition that the special exception of nine spaces shall automatically and immediately terminate if and when the retirement housing use change or discontinue, the applicant would be allowed to maintain the structures on the site with these specific use with the specified square footage, and provide 30 of the 39 code required off-street parking spaces.

Timeline:

July 29, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

August 18, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel A.

August 20, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the September 2, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the September 11, 2020 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 4, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Sing Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

September 4, 2020: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “Recommends Approval”.

BOARD OF ADJUSTMENT ACTION: September 22, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX.

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-088, on application of Rob Baldwin of Baldwin Associates, grant the request of this applicant to provide 30 off-street parking spaces as a special exception to the off-street parking regulations contained in the Dallas Development Code, as amended, which require 39 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a retirement housing use only.

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

The special exception of nine spaces shall automatically and immediately terminate if and when a retirement housing use is changed or discontinued.

SECONDED: Narey

AYES: 5 –Halcomb, Narey, Gambow, Adams, Lamb

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)


2:12 P.M. Board Meeting adjourned for September 22, 2020.



CHAIRPERSON



BOARD ADMINISTRATOR



BOARD SECRETARY

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