

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE  
MONDAY, MARCH 15, 2021**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, regular member, Moises Medina, regular member Judy Pollock, regular member and Nick Brooks, alternate member

MEMBERS ABSENT FROM BRIEFING: Robert Agnich, regular member; Roger Sashington,

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, regular member, Moises Medina, regular member Judy Pollock, regular member and Nick Brooks, alternate member

MEMBERS ABSENT FROM HEARING: Robert Agnich, regular member; Roger Sashington,

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Oscar Aguilera, Senior Planner, David Nevarez, Senior Engineer, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Neva Dean, Assistant Director, Kris Sweckard, Director.

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Oscar Aguilera, Senior Planner, David Nevarez, Senior Engineer, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Neva Dean, Assistant Director, Kris Sweckard, Director.

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**11:04 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **March 15, 2021 docket.**

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

**1:02 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**

Approval of the Board of Adjustment Panel C, December 14, 2020 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

**MOTION: Pollock**

Approval of the Board of Adjustment Panel C, December 14, 2020 public hearing minutes.

**SECONDED: Hounsel**

**AYES: 4 – Hounsel, Brooks, Pollock, Medina**

**NAYS: 0**

**MOTION PASSED: 4 – 0 (unanimously)**

**MISCELLANEOUS ITEM NO. 2**

Approval of the Board of Adjustment 2020 Annual Report.

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

**MOTION: Pollock**

Approval of the Board of Adjustment 2020 Annual Report.

**SECONDED: Brooks**

**AYES: 4 – Hounsel, Brooks, Pollock, Medina**

**NAYS: 0**

**MOTION PASSED: 4 – 0 (unanimously)**

**MISCELLANEOUS ITEM NO. 3**

**BDA201-FW1** Application of Reginald G. Hall, for a fee waiver for a variance to required setbacks and a special exception to the landscape regulations at 2034 Canada Dr.

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**FILE NUMBER: BDA201--FEE WAIVER1**

**BUILDING OFFICIAL'S REPORT:** Application of Reginal G. Hall, for a variance to required setbacks and special exception to the landscape regulations.at 2034 Canada Drive.

**LOCATION: 2034 Canada Drive**

**APPLICANT: Reginald G Hall**

**REQUESTS:**

The applicant is requesting a fee waiver for a variance to required setbacks and special exception to the landscape regulations. The fee waiver is requested to accommodate the development of a church at 2034 Canada Drive.

**STANDARD FOR A FEE WAIVER:**

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket, the applicant may not apply to the merits of the request for a waiver have been determined by the board. In making this determination, the board may require the production of financial documents.

**STAFF RECOMMENDATION:**

The staff does not make a recommendation on a fee waiver request since the standard is whether the board finds that payment of the fee would result in substantial financial hardship to the applicant.

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

APPEARING IN FAVOR: Reginald Hall 2038 Canada Dr. Dallas, TX

APPEARING IN OPPOSITION: None.

**MOTION: Brooks**

I move that the Board of Adjustment **grant** the request to waive fees to be paid in association with a request for a variance to required setbacks and a special exception to the landscape regulations at 2034 Canada Drive because our evaluation of the property and the testimony shows that payment of the fee would result in substantial financial hardship for this applicant.

**SECONDED: Medina**

AYES: 4– Hounsel, Brooks, Pollock, Medina

NAYS: 0 –

**MOTION PASSED: 4-0 (unanimously)**

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**FILE NUMBER: BDA201-015(OA)**

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin for a variance to the side yard setback regulations, and for a variance to the maximum allowed lot coverage at 422 N. Moore Street. This property is more fully described as Lot 16, Block 3/7675, and is zoned an R-5(A) Single Family District, which requires a 45 percent maximum lot coverage, and requires a side yard setback of five feet. The applicant proposes to construct a single-family residential structure and provide a two-inch side yard setback, which will require a four-foot 10-inch

variance to the side yard setback regulations, and to construct a single-family residential structure with 1,688 square feet of floor area, which will require a 19 percent (496-square-foot) variance to the maximum allowed lot coverage of 45 percent.

**LOCATION:** 422 N. Moore Street

**APPLICANT:** Rob Baldwin of Baldwin Associates

**REQUESTS:**

The following requests have been made on an undeveloped site:

1. A variance to the side yard setback regulations is made to construct and maintain a 1,688-square-foot, two-story, single-family structure located two-inches from the side property line (southern) or four-feet ten-inches into the five-foot side yard setback; and
2. A variance to the maximum allowed lot coverage of 45 percent is made to construct and maintain a 1,688-square-foot, two-story, single-family structure, which will require a 19 percent (496-square-foot) variance to the lot coverage regulations.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-5(A) District considering its restrictive lot area of 2,496 square feet so that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) zoning district.

- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed structure on the subject site is commensurate to 63 other lots located in the same R-5(A) District.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-5(A) (Single family district)  
North: R-5(A) (Single family district)  
South: R-5(A) (Single family district)  
East: R-5(A) (Single family district)  
West: R-5(A) (Single family district)

**Land Use:**

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

**Zoning/BDA History:**

There have not been any related board or zoning cases recorded either on or near the subject site within the last five years.

**GENERAL FACTS /STAFF ANALYSIS:**

The requests for variances to the side yard setback requirements and maximum lot coverage regulations focus on constructing and maintaining a 1,688-square-foot, two-story, single-family structure on an undeveloped lot zoned an R-5(A) Single Family District. In this district, a minimum side yard setback of five feet is required. Additionally, the maximum lot coverage is 45 percent.

The submitted site plan indicates that the proposed single-family structure will be located two-inches from the side property line or four feet 10-inches into this required five-foot side yard setback. The subject site is slightly sloped, virtually rectangular (approximately 106 feet by 25 feet)—but narrow, and according to the submitted site plan 2,496 square feet in area. The site is zoned an R-5(A) District where lots are typically a minimum of 5,000 square feet in area. The subject site is 2,504 square feet smaller than the minimum size requirement.

The submitted site plan also indicates that the proposed 1,688-square-foot, two-story, single-family structure will exceed the allowed floor area by 19 percent (496 square feet) and provide a total of 64 percent lot coverage.

According to DCAD records, there are “no main improvements” or “no additional improvements” for property addressed at 422 N. Moore Street.

The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed additions on the subject site are commensurate to 63 other lots located in the same R-5(A) District.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-5(A) zoning classification.

If the board were to grant the variance requests and impose the submitted site plan as a condition, the structure would be limited to what is shown on this document– a 1,688-square-foot, two-story, single-family structure located two-inches from the side property line (southern) or four-feet ten-inches into the five-foot side yard setback, providing 64 percent lot coverage, 19 percent higher than the maximum.

**Timeline:**

December 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 6, 2021: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.

January 8, 2021: 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 January 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 5<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.”

January 27, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable

Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, 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: March 15, 2021**

**APPEARING IN FAVOR:** Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Mike King 1500 Marilla St. Dallas, TX

**APPEARING IN OPPOSITION:** None.

**MOTION: Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA201-015, on application of Rob Baldwin, **grant** the request of this applicant for a variance to the side yard setback regulations and a variance to the maximum allowed lot coverage contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan.

**SECONDED: Brooks**

**AYES:** 4 - Hounsel, Brooks, Pollock, Medina

**NAYS:** 0 -

**MOTION PASSED (unanimously):** 4 – 0

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**FILE NUMBER:** BDA201-019(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Adam Baumli for a variance to the rear yard setback regulations at 7116 Nicki Court. This property is more fully described as Lot 9, Block 10/8758, and is zoned an R-7.5(A) Single Family District, which requires a rear yard setback of five feet. The applicant proposes to construct a single family residential accessory structure and provide a one-foot six-inch rear yard setback, which will require a three-foot six-inch variance to the rear yard setback regulations.

**LOCATION:** 7116 Nicki Court

**APPLICANT:** Adam Baumli

**REQUEST:**

A request for a variance to the rear yard setback regulations is made to maintain an existing accessory structure with an outdoor kitchen located within the required five-foot rear yard setback on a site that is developed with a single-family structure.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION (rear yard variance):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in an R-7.5(A) District due to its restrictive area and irregular shape as presented in a document submitted by the applicant (**Attachment A**). Evidence shows the property is smaller in lot size than seven lots found in an R-7.5(A) Single Family District; therefore, the subject site cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) District.
- The document submitted also indicates that the proposed addition on the subject site is commensurate to ten other lots, with similar development located in the rear of the lot and within the same R-7.5(A) District.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A) (Single Family District)  
North: R-7.5(A) (Single Family District)  
South: R-7.5(A) (Single Family District)  
East: R-7.5(A) (Single Family District)  
West: R-7.5(A) (Single Family District)



**Land Use:**

The subject site and all surrounding properties are developed with single family uses/structures.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS (rear yard variance):**

A request for a variance to the rear yard setback regulations is made to maintain an existing accessory structure with an outdoor kitchen located within the required five-foot rear yard setback on a site that is developed with a single-family structure.

Structures on lots zoned an R-7.5(A) Single Family District are required to provide a rear yard setback of five feet. A site plan has been submitted denoting the existing accessory structure with an outdoor kitchen structure located one-foot six-inches from the rear property line. The site plan shows that approximately 25 percent of the accessory structure will be located in the site's five-foot rear yard setback.

The subject site is irregular in shape and according to the application, it is 0.221 acres (or approximately 9,600 square feet) in area. In an R-7.5(A) District, the minimum lot size is 7,500 square feet; however, the applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed accessory structure located in the rear of the subject site is commensurate to ten other lots in the same R-7.5(A) Single Family District. The document provided for evidence also notes the average lot size of seven lots in this district is 11,964 square feet while the subject lot is 9,583 square feet.

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

- That granting the variance to the rear yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) District zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) District zoning classification.

If the board were to grant this rear yard setback variance request and impose the submitted site plan as a condition, the structures in the rear yard setback would be limited to what is shown on this document. Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than for an accessory structure be located one-foot six-

inches from the rear property line or up to three-feet six-inches into the required five-foot rear yard setback.

**Timeline:**

December 12, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 6, 2021: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 8, 2021: The Board of Adjustment Chief Planner/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 January 26, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the February 5, 2021 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.”

January 26, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, 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: March 15, 2021**

**APPEARING IN FAVOR:** Adam Baumli 7116 Nicki Ct. Dallas, TX  
Ira Korman 7112 Nicki Ct. Dallas, TX

**APPEARING IN OPPOSITION:** None.

**MOTION: Hounsel**

I move that the Board of Adjustment, in request No. BDA201-019, on application of Adam Baumli for a variance to the rear yard setback regulations contained in the Dallas Development Code are **granted**, subject to the following condition:

Compliance with the submitted site plan.

**SECONDED: Pollock**

**AYES:** 4 - Brooks, Hounsel, Medina, Pollock

**NAYS:** 0 -

**MOTION PASSED (unanimously):** 4-0

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**FILE NUMBER:** BDA201-018(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin for a variance to the off-street parking regulations at 906 Salmon Drive. This property is more fully described as Lot 15, Block 7/3840, and is zoned Subarea 2 within Conservation District No. 13, which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is within an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to maintain a single-family residential accessory structure with a setback of one-foot four-inch, which will require a variance of 18-feet eight-inches to the off-street parking regulations.

**LOCATION:** 906 Salmon Drive

**APPLICANT:** Rob Baldwin, Baldwin Associates

**REQUEST:**

A request for a variance to the off-street parking regulations is made to maintain two parking spaces in an enclosed garage located one-foot four-inches from the right-of-way line adjacent to the alley or 18-feet eight-inches into the required 20-foot distance requirement from the property line adjacent to an alley on a property developed with a single-family home.

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot

coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

(D) 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;

(E) 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

(F) 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 this request is contrary to public interest. No evidence was provided to evaluate use of garage access with sufficient maneuvering space to access the site from the 10-foot paved alley without impacting adjacent properties. In addition, the applicant had not substantiated how 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning district.

**Zoning:**

**Site:** CD No. 13, Kessler Park (Subarea 2)

**North:** CD No. 13, Kessler Park (Subarea 2)

**East:** CD No. 13, Kessler Park (Subarea 2)

**South:** CD No. 13, Kessler Park (Subarea 2)

**West:** CD No. 13, Kessler Park (Subarea 2)

**Land Use:**

The subject site and all surrounding properties are developed with single-family structures.

**Zoning/BDA History:**

1. BDA189-076; Property at 931 Salmon Dr. (northwest of the site) On Monday, June 17, 2019, the Board of Adjustment Panel C reversed the decision of the administrative official and granted the relief requested by the applicant.

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

This request for a variance to the off-street parking regulations focuses on maintaining a a two-car garage (enclosed structure) that would be located one-foot four-inches from the property line adjacent to the alley or as much as 18-feet eight-inches into the required 20-foot distance requirement from the property line adjacent to the alleyway. The property is zoned Subarea 2 within CD No. 13, Kessler Park and developed with a single-family home.

Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from a street or alley.

The submitted site plan denotes the location of the enclosed garage structure located one-foot five-inches from the alley’s right-of-way line or 18-feet seven-inches into the 20-foot setback that an enclosed parking space must be from this right-of-way line. (The site plan is one inch different from the request.)

According to DCAD records, the existing one-story structure was built in 1928 and contains 1,862 square feet of floor area. A 400-square-foot detached garage and swimming pool also exist.

The subject site is flat, rectangular in shape and, according to the submitted application, contains 7,500 square feet in lot area.

Staff conducted a site visit and observed one other garage with direct alley access which managed to setback the structure to comply with the 20-foot requirement. The subject site maintains an existing driveway with access to the garage. The owner elected to open a new garage door to the alley to allow for passage without reversing.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Recommends Denial” with the following comment:

- “No evidence was provided to evaluate use of garage access with sufficient maneuvering space to access the site from the 10-foot paved alley without impacting adjacent properties.”

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

- That granting the variance to the off-street parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary

hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD No. 13, Subarea 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 CD No. 13, Subarea 2 zoning classification.

As of February 4, 2021, staff had received one letter in opposition and none in support of the request.

If the board were to grant the request for a variance for an enclosed garage to be located one-foot four-inches from the right-of-way line adjacent to the alley or 18-feet eight-inches feet into the required 20-foot setback, staff recommends imposing the following conditions:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.

**Timeline:**

December 18, 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.

January 6, 2021: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.

January 8, 2021: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the February 5, 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.

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

January 28, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Recommends Denial".

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

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

**APPEARING IN OPPOSITION:** None.

**MOTION: Medina**

I move that the Board of Adjustment, in Appeal No. BDA 201-018, on application of Rob Baldwin of Baldwin Associates, **grant** the 18-foot eight-inch 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.

With the condition that compliance with the submitted site plan is required.

**SECONDED: Brooks**

**AYES:** 4 - Medina, Hounsel, Brooks, Pollock

**NAYS:** 0 -

**MOTION PASSED (unanimously):** 4 - 0

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**FILE NUMBER:** BDA190-116(OA)

**BUILDING OFFICIAL'S REPORT:** Application of Juan G. Cortez represented by Francisca Cortez for a variance to the side yard setback regulations at 7227 Bramlett Drive. This property is more fully described as Lot 16, Block 1/6290, and is zoned an R-7.5(A) Single Family District, which requires a side yard setback of five feet. The applicant proposes to construct and maintain a single family residential structure and provide a four-foot one-inch side yard setback, which will require an 11-inch variance to the side yard setback regulations.

**LOCATION:** 7227 Bramlett Drive

**APPLICANT:** Francisca Cortez

**REQUESTS:**

A variance to the side yard setback regulations is made to remodel and maintain an approximately 1,700-square-foot single family structure four-feet one-inch from the side property line (western) or 11 inches into the five-foot side yard setback on a site that is developed with a single family home.

**STANDARD FOR A VARIANCE:**

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

- (G) 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.
- (H) 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
- (I) 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 (side yard variance):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-5(A) District considering its restrictive lot area according to the submitted site plan. The plan shows the site has a restrictive area due to a rear easement that reduces the developable area of the lot from 7,672 to 5,164 square feet after subtracting the easement so that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district.
- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed structure on the subject site is commensurate to 15 other lots located in the same R-7.5(A) District.



**BACKGROUND INFORMATION:**

**Zoning:**

- Site: R-7.5(A) (Single family district)
- North: R-7.5(A) (Single family district)
- South: R-7.5(A) (Single family district)
- East: R-7.5(A) (Single family district)
- West: R-7.5(A) (Single family district)

**Land Use:**

The subject site and surrounding properties are developed with single family uses.

**Zoning/BDA History:**

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

**GENERAL FACTS /STAFF ANALYSIS:**

The purpose of this request for a variance to the side yard setback regulations of 11 inches focuses on remodeling and maintaining an approximately 1,700-square-foot single family home structure four-feet one-inch from the side property line (western) or 11 inches into the five-foot side yard setback. This property is located in an R-7.5(A) Single Family District which requires a minimum side yard setback of five feet.

According to DCAD records, the “main improvements” for the property addressed at 7227 Bramlett Drive, include a single family structure built in 1949 with 690 square feet of living/total area. DCAD shows an 804-square-foot room addition and a 140-square-foot detached storage building for this property.

The subject site is flat, virtually rectangular (approximately 137 feet x 56 feet), and according to the submitted application, is 0.177 acres (or 7,672 square feet) in area. The site is zoned an R-7.5(A) Single Family District where lots are typically 7,500 square feet in area. The subject site has a 14-foot four-inch easement that reduces the development area for this property to 6,888 square feet.

The submitted site plan indicates the proposed structure is to be located 11 inches from the west side property line or four-feet one-inch into this five-foot side yard setback.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other

parcels of land in districts with the same R-7.5(A) Single Family District zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) Single Family District zoning classification.

If the board were to grant the variance request and impose the submitted site plan as a condition, the structure in the side yard setbacks would be limited to what is shown on this document– which in this case is a structure that would be located 11-inches from the west side property line or four-feet one-inch into this five-foot side yard setback.

**Timeline:**

November 2, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

November 5, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.

November 6, 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 November 24, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the December 4, 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.”

December 1, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

December 14, 2020: The Board of Adjustment Panel B conducted a public hearing on this application, and delayed action on this application until the next public hearing to be held on February 18, 2021.

December 18, 2020: The Board Administrator wrote the applicant a letter of the board's action; the January 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

January 24, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, 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: March 15, 2021**

**APPEARING IN FAVOR:** Francisca Cortez 7227 Bramlett Dallas, TX

**APPEARING IN OPPOSITION:** None

**MOTION: Brooks**

I move that the Board of Adjustment, in Appeal No. BDA190-116, on application of Juan G. Cortez, represented by Francisca Cortez, **grant** the eleven-inch variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required

**SECONDED: Pollock**

**AYES:** 4 - Medina, Hounsel, Brooks, Pollock

**NAYS:** 0 -

**MOTION PASSED (unanimously):** 4 - 0

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**FILE NUMBER:** BDA201-005(OA)

**BUILDING OFFICIAL'S REPORT:** Application of James Jeanes, represented by Jeff Baron, for a variance to the front yard setback regulations at 6804 Lorna Lane. This property is more fully described as Part of Lot A-1, Block A/2805, and is zoned an R-10(A) Single Family District, which requires a front yard setback of 30 feet. The applicant proposes to construct a single-family residential structure and provide a 25-foot front yard setback, which will require a five-foot variance to the front yard setback regulations to the front yard regulations and to maintain a residential accessory pool and provide a seven-foot front yard setback along Brendenwood Drive, which will require a 23-foot variance to the front yard setback regulations.

**LOCATION:** 6804 Lorna Lane

**APPLICANT:** James Jeanes, represented by Jeff Baron

**REQUESTS:**

The following requests have been made on a site developed with a single-family structure:

- 3. A request for a variance to the front yard setback regulations of five feet has been made to demolish an existing structure and to construct and maintain a two-story single-family structure with approximately 4,500 square feet of floor area part of which is to be located seven 25 feet from one of the site's two front property lines (Lorna Lane) or five feet into this 30-foot front yard setback; and
- 4. A variance to the front yard setback regulations of 23 feet is made to maintain an existing and grandfather 900-square-foot pool which is located seven-feet from one of the site's two front property lines (Brendenwood Drive) or 23 feet into this 30-foot front yard setback.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-10(A) single family zoning district considering its restrictive lot area of 10,530 square feet so that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-10(A) single family zoning district.
- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed structure on the subject site is commensurate to 10 other lots located in the same R-10(A) District.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: R-10(A) (Single family district)
- North: R-10(A) (Single family district)
- South: R-10(A) (Single family district)
- East: Conservation District No. 2
- West: R-10(A) (Single family district)

**Land Use:**

The subject site and surrounding properties are developed with single family uses.

**Zoning/BDA History:**

1. BDA190-112, Property at 6804 Lorna Lane (the subject site)  
On November 16, 2020, the Board of Adjustment Panel A denied a request for a variance to the front yard setback regulations of five feet without prejudice.  
  
The case report stated the request was made to construct and maintain a two-story single-family structure with approximately 4,500 square feet of floor area, part of which is to be located 25 feet from one of the site's two front property lines on Lorna Lane or five feet into the 30-foot front yard setback on a site developed with a single family structure.

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

The following requests have been made on a site developed with a single-family structure focuses on:

1. Demolishing, constructing, and maintaining a two-story single-family structure with approximately 4,500 square feet of floor area, part of which is to be located 25 feet from one of the site's two front property lines (Lorna Lane) or five feet into this 30-foot front yard setback; and
2. maintaining an existing and nonconforming 900-square-foot pool which is located seven-feet from one of the site's two front property lines (Brendenwood Drive) or 23 feet into this 30-foot front yard setback.

Please note that this request includes the previous BDA190-112 request (#1) but now includes the existing nonconforming pool structure as part of the current request.

The subject site is zoned an R-10(A) Single Family District which requires a minimum front yard setback of 30 feet. The property is located at the southeast corner of Lorna Lane and Brendenwood Drive. Regardless of how the structures are proposed to be oriented to front Lorna Lane for the proposed single family stricture and on Brentwood Avenue for the existing pool structure, the lot has a 30-foot front yard setback along both street frontages to maintain the continuity of the established front yard setback established by the lots to the south that front and are oriented towards Lorna Lane. There is no continuity of the established front yard setback established by the lots on Brendenwood Drive. However, staff determined that Brendenwood Drive is a front yard since this property has two frontages of unequal distance and Brendenwood Drive is the shorter frontage.

The submitted site plan indicates the proposed single-family structure is to be located 25 feet from the front property line along Lorna Lane or five feet into this 30-foot front yard setback. Also, this document indicates that the existing pool structure is located seven feet from the front property line along Brendenwood Drive or 23-feet into this 30-foot front yard setback.

The subject site is flat, rectangular in shape, and according to the application, it is 0.24 acres (or approximately 10,500 square feet) in area. In an R-10(A) District, the minimum lot size is 10,000 square feet.

The applicant submitted a document with this application, indicating among other things that that the total home size of the proposed home on the subject site is 4,500 square feet, and the average of 10 other properties in the same zoning is approximately 5,540 square feet.

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 R-10(A) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-10(A) zoning classification.

If the board were to grant the variance request and impose the submitted site plan as a condition, the single-family structure in the front yard setback would be limited to what is shown on this document– which in this case is a two-story single family structure with approximately 4,500 square feet of floor area part of which is to be located 25 feet from one of the site’s two front property lines (Lorna Lane) or five feet into this 30-foot front yard setback and a 900-square-foot pool which is located seven feet from one of the site’s two front property lines (Brendenwood Avenue) or 23 feet into this 30-foot front yard setback.

**Timeline:**

November 19, 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.

January 6, 2021: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.

January 8, 2021: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the February 5, 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.

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

**BOARD OF ADJUSTMENT ACTION: March 15, 2021**

APPEARING IN FAVOR: Jeff Baron 8600 Forest Hills Dallas, TX

APPEARING IN OPPOSITION: None

**MOTION: Pollock**

I move that the Board of Adjustment, in Appeal No. BDA 201-005, **hold** this matter under advisement until April 19, 2021.

**MOTION: Hounsel**

I move to adjourn the Panel C hearing.

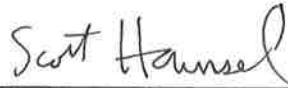
**SECONDED: Medina**

**AYES: 4 - Brooks, Hounsel, Medina, Pollock**

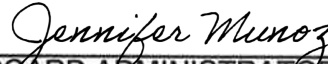
**NAYS: 0 -**

**MOTION PASSED (unanimously): 4 - 0**

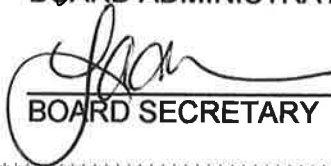
The meeting was adjourned at **2:15 P.M. on March 15, 2021.**



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.