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CITY SECRETARY
DALLAS, TEXAS

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
MONDAY, AUGUST 16, 2021**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, regular member, Judy Pollock, regular member, Robert Agnich, regular member, Roger Sashington, regular member, Jared Slade, alternate member

MEMBERS ABSENT FROM BRIEFING: Moises Medina, regular member

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, regular member, Judy Pollock, regular member, Robert Agnich, regular member, Roger Sashington, regular member, Jared Slade, alternate member

MEMBERS ABSENT FROM HEARING: Moises Medina, regular member

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director and Dr. Eric A. Johnson, Interim Director.

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director and Dr. Eric A. Johnson, Interim Director.

11:04 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **August 16, 2021 docket.**

BOARD OF ADJUSTMENT ACTION: August 16, 2021

1:01 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 C, June 21, 2021 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: August 16, 2021

MOTION: Pollock

Approval of the Board of Adjustment Panel C, June 21, 2021 public hearing minutes.

SECONDED: Sashington

AYES: 5 – Hounsel, Pollock, Agnich, Sashington, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-FW3

BUILDING OFFICIAL'S REPORT: Application of Frank P. Moscrey, for a special exception to the fence materials regulations at 1609 Houghton Road.

LOCATION: 1609 Houghton Road

APPLICANT: Frank P. Moscrey

REQUESTS:

The applicant is requesting a fee waiver for a special exception to the prohibited fence materials regulations. The fee waiver is requested to accommodate screening of a single-family dwelling at 1609 Houghton Road.

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: August 16, 2021

APPEARING IN FAVOR: Frank Moscrey 169 Houghton Rd. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Hounsel

I move that the Board of Adjustment **grant** the request to waive the filing fees to be paid in association with a request for special exceptions to the fence material regulations at 1609 Houghton Road because our evaluation of the property and the testimony shows that payment of the fee would result in substantial financial hardship to the applicant.

SECONDED: Pollock

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)

FILE NUMBER: BDA201-064(PD)

BUILDING OFFICIAL’S REPORT: Application of Jonathan G. Vinson of Jackson Walker, LLP, for a special exception to the parking regulations at 1333/1401 Oak Lawn Avenue. This property is more fully described as Lot 14, in City Block 38/7888, and is zoned Subdistrict 1 within Planned Development District No. 621, which requires off-street parking to be provided. The applicant proposes to construct a nonresidential structure for a restaurant without drive-in or drive-through service use, and an office use, and provide 309 of the required 362 parking spaces, which will require a 53-space special exception (15 percent reduction) to the parking regulation.

LOCATION: 1333/1401 Oak Lawn Avenue

APPLICANT: Jonathan G. Vinson of Jackson Walker, LLP

REQUEST:

A request for a special exception to the off-street parking regulations of 53 spaces is made to construct a restaurant without a drive-in or drive-through service use with a total floor area of 2,806-square-feet and an office use with a total floor area of 126,565-square-feet and provide 309 off-street parking spaces (or 85 percent) of the 362 required off-street parking spaces for the subject site.

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

Sec.51P-621.110(D) Special exception. The board of adjustment may grant a special exception of up to 50 percent of the required off-street parking upon the findings and considerations listed in Section 51A-4.311. The board of adjustment may impose conditions on the special exception.

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 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
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

No staff recommendation is made on this request for a special exception to the parking demand since the basis for this type of appeal is whether the board finds 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 applicant submitted a parking analysis with the application materials which shows the existing parking demand along with vacant suites assigned typical uses. Overall, the analysis identifies that the combination of uses proposed for development requires 362 parking spaces netted from the parking requirement with time-of-day factors table. The request for the special exception of 53 spaces (15 percent) of the remaining 362 parking spaces will require that only 309 spaces are provided on-site.

To assist the board in its decision-making, the Sustainable Development and Construction Department Senior Engineer reviewed the area of request and information provided by the applicant. A comment sheet (**Attachment E**) submitted in review of the request states, "Recommends no objection subject to the following condition":

- The special exception of 53 spaces shall automatically and immediately terminate if and when a restaurant without a drive-in or drive-through service use, and an office use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Senior Engineer indicated that he has no objections to the request which is based on latest parking demand analysis provided with the application, the parking trends within the Design District and other recent requests of similar combined uses proposed for development in the Dallas-Fort Worth metroplex.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	Subdistrict 1 within PDD No. 621
<u>East:</u>	Subdistrict 1 within PDD No. 621
<u>South:</u>	Subdistrict 1 within PDD No. 621
<u>West:</u>	Subdistrict 1 within PDD No. 621
<u>North:</u>	Subdistrict 1 within PDD No. 621

Land Use:

The subject site is developed with two free-standing one-story; office/showroom warehouse uses consisting of 14,971-square-feet and 7,470-square-feet. Surrounding uses include a multifamily use to the north, office/showroom warehouse uses are found to the east, south and west.

Zoning/BDA History:

There have been two related zoning cases and no related board cases recorded in the vicinity within the last five years.

1. Z190-136: On February 10, 2021, the City Council approved an authorized hearing to determine proper zoning on property zoned Planned Development District No. 621, the Old Trinity and Design District Special Purpose District, with consideration being given to creating new sub-uses under the Commercial amusement (inside) use, requiring a specific use permit for a Commercial amusement (inside) use, and establishing parking regulations for the sub-uses such as number of required parking spaces, distance to remote parking, parking reductions, and shared parking in an area generally bounded by Sylvan Avenue/Wycliff Avenue, the meanders of the old channel of the Trinity River, Interstate 35, Continental Avenue, and the Trinity River Floodway.
2. Z178-314: On June 12, 2019, the City Council approved an application and an ordinance granting for a new subdistrict within Planned Development District No. 621, the Old Trinity and Design District Special Purpose District, on property zoned Subdistrict 1 within Planned Development District No. 621 and Planned Development District No. 442, located north of the intersection of North Stemmons Freeway Service Road and Slocum Street.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the off-street parking regulations of 53 spaces (or a 15-percent reduction of the parking spaces required) is to construct a restaurant without a drive-in or drive-through service use, and an office use to provide 309 parking spaces (or 85 percent) of the 362 required parking spaces for the subject site.

The property is zoned Subdistrict 1 within Planned Development District No. 621 which requires the following off-street parking to be provided:

- one space for each 105 square feet of floor area for a restaurant without a drive-in or drive-through service use
- one space for each 358 square feet of floor area for an office use.

Therefore, the proposed 2,860-square-foot restaurant without a drive-in or drive-through service use will require a total of 27 off-street parking spaces and the proposed 126,565-square-foot office use will require a total of 354 off-street parking spaces for a subtotal of 381 off-street parking spaces required.

Additionally, Sec.51P-621.110(b)(4)(D) regulating shared parking requires that Except for residential uses in Subdistrict 1B, if more than one type of use is located on a building site, all uses on the building site must share parking. Table 1 must be used to calculate the required off-street parking spaces when parking is shared. The number of off-street parking spaces that must be provided for the development is the largest number of spaces required under any of the five time-of-day columns. For example, in the morning, a development with residential and office uses must provide 80 percent of the off-street parking that would normally be required for the residential uses and 100 percent of the off-street parking that would normally be required for the office uses. Likewise, in the afternoon, that development must provide 60 percent of the off-street parking that would normally be required for the residential uses and 100 percent of the off-street parking that would normally be required for the office uses. A similar calculation must be performed for each time of day. If the number of spaces required in the morning is greater than the number of spaces required during any other time of day, then the number of spaces required in the morning must be provided. Likewise, if the number of spaces required in the late afternoon is greater than the number of spaces required during any other time of day, then the number of spaces required in the late afternoon must be provided.

Table 1: Shared Parking Table
(For calculating the parking requirement for shared parking)

		%	%	%	%	%
<u>Use Category</u>		<u>Morning</u>	<u>Noon</u>	<u>Afternoon</u>	<u>Late Afternoon</u>	<u>Evening</u>
Residential		80	60	60	70	100
Office-related		100	80	100	85	35
Retail-related		60	75	70	65	70
Bar and Restaurant		20	100	30	30	100
Warehouse/ Showroom		100	75	100	65	35
All other		100	100	100	100	100

Utilizing the calculations for the afternoon shared parking requirement, the parking analysis concludes that 362 spaces are required for the office use at 100 percent of the requirement while the restaurant use during the same time of day will only require 30 percent of the shared parking requirement for the required 27 spaces which nets only eight spaces during the afternoon. Thus, the net parking requirement which is equal to the highest subtotal (afternoon) after application of the time-of-day factors is 362 parking spaces. A summary of the resulting net parking requirement is summarized in Tables 1 and 2 of the parking study below.

Table 1. Base Code Parking Requirement

LAND USE	QUANTITY	RATE	PARKING REQUIREMENT
Office	126,565 GSF	1 space per 358 GSF	354
Restaurant	2,860 GSF	1 space per 105 GSF	27
<i>Total (before Time-of-Day Adjustments)</i>			381

Table 2. Parking Requirement With Time-of-Day Factors

LAND USE	BASE REQUIREMENT	Morning	Noon	Afternoon	Late Afternoon	Evening
Office-Related	354	100%	80%	100%	85%	35%
Restaurant	27	20%	100%	30%	30%	100%
Subtotal	381	354 + 5 = 359	283 + 27 = 310	354 + 8 = 362	301 + 8 = 309	124 + 27 = 151

The applicant has submitted a study, based upon the updated Institute of Transportation Engineers (ITE) Parking Generation Manual which estimates peak parking demand is 2.39 parked vehicles per 1000 square feet of gross floor area spaces for the office use. The study provided represents that the projected peak parking demand for the proposed office is 309 spaces and the applicant proposes to provide a total 309 spaces.

The Sustainable Development and Construction Department Senior Engineer has no objection to the request subject to special conditions noted (**Attachment E**).

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

- The parking demand generated by the restaurant without drive-in or drive-through service use and an office use on the site does not warrant the number of off-street parking spaces required, and
- The special exception of 53 spaces (or a 15-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 a condition may be imposed that the special exception of 53 spaces shall automatically and immediately terminate if and when a restaurant without a drive-in or drive-through service use, and an office use is changed or discontinued.

Timeline:

- May 6, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- July 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 July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 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.”
- July 27, 2021: The applicant submitted a letter detailing the parking study submitted with the application. Additionally, the applicant submitted a parking demand analysis and a memorandum to the Engineering Division containing the demand data (**Attachments A and B**).
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the

Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

July 30, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “no objection to the request” (**Attachment E**).

August 6, 2021: The applicant submitted a letter to the Board panel, a zoning map and the parking study and demand data that were previously submitted as mentioned above (**Attachments C & D**).

BOARD OF ADJUSTMENT ACTION: August 16, 2021

APPEARING IN FAVOR: Jonathan Vinson 2323 Ross Ave. #600 Dallas, TX
Steve Stoner 7557 Rambler Rd. #1400 Dallas, TX
Colin Moore 750 N. St. Paul #1350 Dallas, TX
Chad Cook 4605 Bluffview Blvd. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 201-064, application of Jonathan G. Vinson of Jackson Walker, LLP, **grant** the special exception to the parking regulations contained in the Dallas Development Code, subject to the following condition:

The special exception of 53 spaces shall automatically and immediately terminate if and when a restaurant without drive-in or drive-through use, and an office use is changed or discontinued.

SECONDED: Pollock

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

FILE NUMBER: BDA201-068(PD)

BUILDING OFFICIAL’S REPORT: Application of Benji and Rachel Kurian represented by Rob Baldwin of Baldwin Associates for a special exception to the fence standards regulations and a variance to the front yard setback regulations at 6919 Wabash Circle. This property is more fully described as Lot 1A, in City Block 1/2816, and zoned an R-7.5(A) Single Family District, which limits the height of a fence in the front yard to four feet and requires a front yard setback of 25 feet. The applicant proposes to construct an addition to the existing single-family dwelling and provide a no front yard setback along Delrose Drive (zero feet) which requires a 25-foot variance to the front yard setback regulations and to construct an eight-foot-high fence in a required front yard which will require a four-foot special exception to the fence regulations.

LOCATION: 6919 Wabash Circle

APPLICANT: Benji and Rachel Kurian
Represented by Rob Baldwin of Baldwin Associates

REQUEST:

Two requests exist for the subject site. The first request for a special exception to the fence standards regulations to a height of four feet is made to construct and maintain an eight-foot-high fence. The second request for a variance to the 25-foot front yard setback regulations is made to provide no front yard setback (zero-foot) is made to allow for the construction of an addition of approximately 920 square feet. The property is currently developed with an approximately 4,352-square-foot single-family dwelling where 1,372 square feet of the existing two-story garage is slated to be renovated as well.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

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:

- The property is irregular in shape, has two front yards, and has a slight slope. Therefore, staff concluded the subject site has significant topography changes that warrant a retaining wall that do not exist on other properties within the general vicinity and that the subject site is unique and different from most lots in the R-7.5(A) Single Family District. Additionally, the property is a corner lot with two front yards which further restricts the property from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning classification.

BACKGROUND INFORMATION:

Zoning:

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

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:

Two requests exist for the subject site. The first request for a special exception to the fence standards regulations to a height of four feet is made to construct and maintain an eight-foot-high fence.

The second request for a variance to the 25-foot front yard setback regulations is made to provide no front yard setback (zero-foot) to allow for the construction of additions of approximately 920 square feet.

The property is currently developed with an approximately 4,352-square-foot single-family dwelling where 1,372 square feet of the existing two-story garage is slated to be renovated at the same time as the additions.

The subject site is zoned an R-7.5(A) Single Family District and requires a minimum front yard setback of 25 feet. However, the property is situated along the northeast corner of Wabash Circle and Delrose Drive and thereby, contains two front yards that must maintain the 25-foot

front yard setback in compliance with the front yard provisions for residential districts. Section 51A-4.401(b)(1) of the Dallas Development Code regulates that if a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations in Section 51A-4.402. If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by this section, and the longer frontage is governed by side yard regulations in Section 51A-4.402. Notwithstanding this provision, the continuity of the established setback along street frontage must be maintained. Thus, the location of the subject site fronting along two streets imposes an additional front yard setback requirement of 25 feet to maintain the continuity of the blockface.

Additionally, the subject site has some significant topography changes that warrant a retaining wall. These topography changes do not exist on other properties within the general vicinity making the subject site unique and different from most lots in the R-7.5(A) single family zoning district.

The applicant submitted a document (**Attachment A**) indicating that the proposed addition on the subject site is commensurate to 17 other lots with similar development. The document contains a brief survey of properties in the immediate area which they believe indicates that the subject property is smaller than other lots and that the proposed addition will allow a house commensurate in development to those of other homes in the area. The property is irregular in shape, has two front yards, and has a slight slope.

Additionally, the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-7.5(A) Single Family District which limits fence heights to four feet in the front yard setback.

The following information is shown on the submitted site plan:

- The proposed fence is located at the lot line along Delrose Drive and at its closest point appear to be approximately one-foot from the back of curb/pavement line.
- Due to the change of topography the proposed four-foot-high fence will sit atop a four-foot-high retaining wall. However, since the fence height is measured from grade the total height of the proposed fence is eight 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-7.5(A) zoning classification.

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

If the board were to grant 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.

The requests for special exceptions to the fence standards regulations related to height focus on:

- constructing and maintaining a four-foot solid masonry fence with a four-foot retaining wall to maintain an overall eight-foot-tall fence located in one of the site's two front yard setbacks (Delrose Drive).

Section 51A-4.602(a)(2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. As noted, the proposed fence would be within the required 25-foot front yard setback.

Staff conducted a field visit of the site and surrounding area and did not observe any other fences that appeared to be above four feet-in-height in the required front yard on Delrose Drive

As of July 29, 2021, no letters have been submitted in opposition or in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of four feet located on Delrose Drive will not adversely affect neighboring property.

Granting the special exception to the fence standards related to the height would require the proposal exceeding four feet-in-height in the front yard setback located along Delrose Drive to be maintained in the locations and of the heights and materials as shown on the site plan and elevation plan.

Timeline:

- | | |
|---------------|---|
| June 9, 2021: | The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report. |
| July 7, 2021: | The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C. |
| July 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 July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 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.

July 16, 2021: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (**Attachment A**).

July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

BOARD OF ADJUSTMENT ACTION: August 16, 2021

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

APPEARING IN OPPOSITION: None.

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 201-068, on application of Benji and Rachel Kurian represented by Rob Baldwin, **grant** the special exception to the fence standards regulations and a variance to the front yard setback regulations contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

SECONDED: Agnich

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

FILE NUMBER: BDA201-065(PD)

BUILDING OFFICIAL'S REPORT: Application of Wissam Shazem of 2020 Real Estate LLC represented by Elias Rodriguez for a special exception to the landscaping regulations at 4137

Independence Drive. This property is more fully described as Lot 10A, in City Block 4/6932, and is zoned an MU-2 Mixed Use District, which requires mandatory landscaping. The applicant proposes to construct a retail structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4137 Independence Drive

APPLICANT: Wissam Shazem of 2020 Real Estate LLC.
represented by Elias Rodriguez

REQUEST:

A request for a special exception to the landscape regulations is made to demolish the existing structure and construct a 9,779-square-foot retail structure that will not meet the landscape regulations or, more specifically, will not provide the required street buffer zone along the street frontage due to an existing underground 12-inch water utility and overhead electrical lines along the property boundary which prohibit planting in the right-of-way and within ten feet of the utility line.

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

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

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

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

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

STAFF RECOMMENDATION:

The City of Dallas chief arborist submitted a memo regarding the applicant's request and recommending denial (**Attachment A**).

Rationale:

- The chief arborist recommends denial of the special exception to the alternate landscape requirements of Article X, as amended. The proposed landscape plan provides a minimal amount of landscape area in the west corner of the lot and a few trees in isolated landscape areas on the site. Although existing street front conditions and the building location limit landscaping along that frontage, it is not made clear that space cannot be provided within the parking lot to establish additional landscape areas for site and parking lot trees between parking spaces set away from the street utilities. This could help mitigate for the lack of a street buffer zone. Further, any additional site plan amendments in the ongoing building permit review to reduce the number of driveway entries, or any other amendments, would require landscape plan amendments demonstrating these site dimensional changes to be returned to the board. Site plan conditions should be confirmed.

BACKGROUND INFORMATION:

Zoning

<u>Site:</u>	MU-2 (Mixed Use District 2)
<u>North:</u>	MU-2 (Mixed Use District 2)
<u>East:</u>	MU-2 (Mixed Use District 2)
<u>South:</u>	MU-2 (Mixed Use District 2)
<u>West:</u>	MU-2 (Mixed Use District 2)

Land Use:

The subject site is developed with a vacant retail structure consisting of approximately 10,269-square feet of floor area, according to the Dallas Central Appraisal District. The property to the east is undeveloped. The properties to the south and west are developed with a hotel or motel use and the property to the north is developed with retail and personal service uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

The request for a special exception to the landscape regulations is made to demolish the existing structure and construct a 9,779-square-foot retail structure that will not meet the minimum landscape requirements.

The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period. In this case, the existing structure will be demolished. The construction of the new restaurant triggers compliance with landscape regulations.

The City of Dallas chief arborist submitted a memo regarding the applicant's request (**Attachment A**).

The chief arborist's memo states the following with regard to "request":

The applicant is seeking a special exception to the landscaping requirements of Article X. The renovation and new construction and added story height of the structure requires the addition of landscaping under the Article X ordinance.

The chief arborist's memo states the following with regard to "provision":

The proposed landscape plan provides a minimal amount of landscape area in the west corner of the lot and a few trees in isolated landscape areas on the site.

The chief arborist's memo states the following with regard to "deficiencies":

The proposed plan does not provide for a complete street buffer zone along the street frontage, and the underground 12-inch water utility and overhead electrical lines along the property boundary prohibit planting in the right-of-way and within ten feet of the utility line. The existing built conditions do burden the application of mandatory requirements along the street frontage.

The landscape plan does not provide that the requirements for parking lot landscape requirements will be met where all parking must be within 70 linear feet of a large or medium tree.

Article X requires a minimum of nine site trees and the plan's table indicates four trees.

It is not clear on the plan that the 15 required landscape design option points for the property are met on the landscape design.

The chief arborist's revised memo states the following with regard to the "recommendation":

The chief arborist recommends denial of the proposed alternate landscape plan. Although existing street front conditions and the building location limit landscaping along that frontage, it is not made clear that space cannot be provided within the parking lot to establish additional landscape areas for site and parking lot trees between parking spaces set away from the street utilities. This could help mitigate for the lack of a street buffer zone. Further, any additional site plan amendments in the ongoing building permit review to reduce the number of driveway entries, or any other amendments, would require landscape plan amendments demonstrating

these site dimensional changes to be returned to the board. Site plan conditions should be confirmed.

If the board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided an exception from compliance with minimum landscape requirements for the street buffer zone requirements.

Timeline:

- May 12, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- July 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 July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 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.
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- July 30, 2021: The Sustainable Development and Construction Chief Arborist submitted a report detailing the recommendation (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: August 16, 2021

APPEARING IN FAVOR: Elias Rodriguez 317 E. Jefferson Blvd. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Agnich

I move that the Board of Adjustment in Appeal No. BDA 201-065, **hold** this matter under advisement until **October 18, 2021**.

SECONDED: Sashington

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

FILE NUMBER: BDA201-057(JM)

BUILDING OFFICIAL’S REPORT: Application of John J. DeShazo Jr. for a variance to the off-street parking regulations at 7330 Gaston Avenue. This property is more fully described as Lot 11A, Block E/2738, and is zoned Planned Development District No. 808, which requires off-street parking to be provided. The applicant proposes to maintain a nonresidential structure with a mix of uses including a restaurant without drive-in or drive-through service use, a general merchandise or food store 3,500 square feet or less use, and personal service use, medical clinic or ambulatory center, and provide 346 of the required 359 off-street parking spaces, which will require a 13-space variance to the off-street parking regulations.

LOCATION: 7330 Gaston Avenue

APPLICANT: John J. DeShazo Jr.

REQUEST:

A request for a variance to the parking regulations of 13 spaces is made to maintain a mix of uses within a multitenant facility. The variance is requested due to a taking of right-of-way along East Grand Avenue which reduces the provided parking by 13 spaces.

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:

Denial.

Rationale:

Staff has concluded that the applicant has not substantiated how granting this variance to the off-street parking regulations of 13 spaces is not contrary to public interest. A parking analysis provided with the application materials including the existing uses identifies the proposed reduction of 13 spaces has no effect since the observed demand for parking and predictions for vacant suites is still met. However, the parking analysis reflects a different planned development district. Additionally, this is a variance request and not a parking demand special exception.

Due to the taking of right-of-way for the 3G intersection improvements, the compliant site would be made non-conforming; however, the taking allows for the replacement of parking credits through the application of delta theory. The variance is not needed to replace the taken parking spaces, but is a preferred option of the applicant in proceeding with being credited for those 13 spaces.

Therefore, the variance to the off-street parking regulations is not necessary to permit development of the subject site since the property is already developed. While this is not a self-created hardship, the request for a variance is not necessary since the spaces are granted as a credit so long as the structure and uses comply with the Section 51A-4.704(b)(4)(B) regulations regarding converting uses.

The city engineer has reviewed the limited information provided for review and recommends denial of the request for a variance due to the limited information provided (**Attachment A**).

BACKGROUND INFORMATION:

Zoning:

- Site: PD No. 808
- North: CR Community Retail District
- East: PD No. 808, CR Community Retail, and MU-1 Mixed Use Districts
- South: CR Community Retail District
- West: CR Community Retail District and R-7.5(A) Single Family District

Land Use:

The subject site is developed with mixed-use multitenant facility. Surrounding land uses include additional mixed-use/retail to the north; restaurants to the north, east, and south; multifamily to the south and west; and, single-family uses located to the southwest.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

A request for a variance to the off-street parking regulations of 13 spaces is made to maintain a mix of uses within a multitenant facility. The variance is requested due to a taking of right-of-way along East Grand Avenue, but no further details were provided except the land uses. Specifically, the reduction proposed pertains to the following four uses: (1) a restaurant without drive-in or drive-through service use, (2) a general merchandise or food store 3,500 square feet or less use, (3) a personal service use, and (4) a medical clinic or ambulatory center.

The site is zoned a PD No. 808, which requires parking to be provided per Chapter 51A (the Dallas Development Code). Accordingly, the required parking for each use is:

1. A
restaurant without drive-in or drive-through service use off-street parking requirement is one space per 100 square feet of floor area.
2. A general
merchandise or food store 3,500 square feet or less use off-street parking requirement is one space per 200 square feet of floor area.
3. A personal
service use off-street parking requirement is one space per 200 square feet of floor area.
4. A medical
clinic or ambulatory center use off-street parking requirement is one space per 200 square feet of floor area.

The applicant submitted a parking analysis with the application materials which shows the existing parking demand along with vacant suites assigned typical uses. Overall, the analysis identifies that the mixed-use development with 60,263 square feet of floor area requires 359 parking spaces and satisfies two with bicycle spaces. The remaining 357 parking spaces are currently provided on-site. However, a pending taking of right-of-way for the “3-G” intersection at the southeast portion of the property along East Grand Avenue will lead to the loss of 13 parking spaces.

The Sustainable Development and Construction Department Senior Engineer objects to the request due to insufficient information being provided (**Attachment A**).

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 PD No. 808 zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 808 zoning classification.

If the board were to grant this request, the applicant would be able to obtain Certificates of Occupancy on the subject site and provide 346 of the required 359 off-street parking spaces.

Timeline:

- April 22, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- May 14, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- May 20, 2021: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the June 1st deadline to submit additional evidence for staff to factor into their analysis; and the June 11th 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 2, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet (**Attachment A**—updated August 10th).
- June 4, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code 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.
- June 23, 2021: Due to a prior associated fee waiver request (BDA190-FW02), the Board of Adjustment Panel B did not decide on this request. The case was rescheduled for Panel C on Monday, August 16th.
- July 16, 2021: The Board Administrator emailed the applicant a reminder that provided the public hearing date and panel that will consider the application; the July 27th deadline to submit additional evidence for

staff to factor into their analysis; and the August 6th deadline to submit additional evidence to be incorporated into the Board's docket materials.

July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

BOARD OF ADJUSTMENT ACTION: August 16, 2021

APPEARING IN FAVOR: Chuck DeShazo 400 S. Houston St. #330 Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Slade

I move that the Board of Adjustment, in Appeal No. BDA 201-057, on application of John J. DeShazo, Jr., **deny** the off-street parking regulations variance requested by this applicant **without** prejudice because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant..

SECONDED: Hounsel

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

FILE NUMBER: BDA201-067(JM)

BUILDING OFFICIAL'S REPORT: Application of Bibiana Ramirez for a variance to the front yard setback regulations at 1417 Tempest Drive. This property is more fully described as Lot 24, Block 1/8778 and zoned an R-7.5(A) Single Family District, which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a single-family residential structure and provide a 12-foot front yard setback, which will require a 13-foot variance to the front yard setback regulations.

LOCATION: 1417 Tempest Drive

APPLICANT: Bibiana Ramirez

REQUESTS:

The purpose of these requests is to maintain a 1,200-square-foot single-family structure within 12 feet of the front property line along Tempest Drive.

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:

Denial.

- Upon review of the evidence submitted, staff concluded that the applicant had failed to prove how granting the 13-foot variance to the front yard setback along Tempest Drive is:
 - not contrary to the public interest;
 - necessary to permit commensurate development; and,
 - not granted to relieve a self-created or personal hardship, nor for financial reasons only.
- The applicant submitted a document indicating that the proposed structure on the subject site is commensurate to five other lots located in the same R-7(A) District and within the immediate vicinity. However, the evidence consisted of two undeveloped lots and one outlier lot with an acre of area, or 43,560 square feet of area. In comparison to the other four lots and the subject site which all have between 7,470 and 7,788 square feet of area, the outlier only serves to drive-up the total lot area average.
- The evidence provided does not meet all three parts of the standard.

Zoning:

Site: R-7.5(A) (Single Family District)

North: R-7.5(A) (Single Family District)

East: R-7.5(A) (Single Family District)

South: 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 been no related board or zoning cases near the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The subject site is zoned an R-7.5(A) Single Family District which requires a minimum front yard setback of 25 feet. The property is located on the west side of Tempest Drive, with one front yard setback. The request for a variance to the front yard setback regulations of 13 feet focuses on maintaining a single-family residential structure with approximately 1,200 square feet of floor area.

The submitted site plan indicates the proposed structure is located 12 feet from the Tempest Drive front property line or 12 feet into this 25-foot front yard setback.

According to DCAD records, the approximately 1,200-square-foot structure was erected in 1964 and the property contains 7,606 square feet of area.

The subject site is flat, rectangular in shape, and according to the application and DCAD records, approximately 7,606 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 with this application indicating that the proposed home with 1,200 square feet of floor area is larger than five other properties in the same zoning containing approximately 769 square feet of floor area. The evidence also compared the lot size to those same five properties, one of which is an outlier with an acre of area and found the average to be 14,780 square feet. This was used as a hardship for the property, which staff does not agree with. Staff recommends denial based on this insufficient evidence.

The applicant has the burden of proof in establishing that granting the variance to the front yard setback regulations meets all three sections of the variance standard. 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.

TIMELINE:

- May 18, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- July 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 July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 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.
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

BOARD OF ADJUSTMENT ACTION: August 16, 2021

APPEARING IN FAVOR: Bibiana Ramirez 1446 Tempest Dr. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Sashington

I move that the Board of Adjustment, in Appeal No. BDA 201-067, on application of Bibiana Ramirez, **grant** the 13-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the current submitted site plan is required and the front porch shall not be enclosed.

SECONDED: Pollock

AYES: 5 - Hounsel, Pollock, Agnich, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 - 0

MOTION: Agnich

I move to adjourn the Panel C hearing.

SECONDED: Hounsel

AYES: 5 - Agnich, Hounsel, Pollock, Sashington, Slade

NAYS: 0 -

MOTION PASSED (unanimously): 5 - 0

The meeting was adjourned at 2:17 P.M. on August 16, 2021.

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.