

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1 CONFERENCE CENTER AUDITORIUM
WEDNESDAY, AUGUST 21, 2013**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, David Wilson, regular member, Paula Leone, regular member and Jim Gaspard, alternate member

MEMBERS ABSENT FROM BRIEFING: Christian Chernock, regular member

MEMBERS PRESENT AT HEARING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, David Wilson, regular member, Paula Leone, regular member and Jim Gaspard, alternate member

MEMBERS ABSENT FROM HEARING: Christian Chernock, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Bert Vandenberg, Asst. City Attorney, Laura Morrison, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Lloyd Denman, Asst. Director of Engineering and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Bert Vandenberg, Asst. City Attorney, Laura Morrison, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Lloyd Denman, Asst. Director of Engineering and Trena Law, Board Secretary

10:35 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **August 21, 2013 docket.**

1:05 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

To approve the Board of Adjustment Panel B June 19, 2013 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: **AUGUST 21, 2013**

MOTION: Wilson

I move approval of the **Wednesday, June 19, 2013** Board of Adjustment Public Hearing minutes.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-069

BUILDING OFFICIAL’S REPORT: Application of John Taylor White, Jr. for a variance to the front yard setback regulations at 6602 Avalon Avenue. This property is more fully described as part of Lot 2, Block L/2797 and is zoned CD-2 (Tract 3), which requires a front yard setback of 60 feet. The applicant proposes to construct and maintain a structure and provide a 52 foot front yard setback, which will require an 8 foot variance to the front yard setback regulations.

LOCATION: 6602 Avalon Avenue

APPLICANT: John Taylor White, Jr

REQUEST:

A variance to the front yard setback regulations of 8’ is made in conjunction with constructing and maintaining a 2nd floor addition to an existing two-story home, part of which would be located in the site’s 60’ front yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The lot's restrictive area with a depth ranging from 115' – 125' precludes its development in a manner commensurate with other developments found on similarly-zoned CD 2 (Tract 3) lots. The submitted plat maps shows that the subject site is the shallowest of all lots in the 6600 block of Avalon Avenue. The lot depth increases from the subject site to where the property seven lots eastward is 178' in depth.

BACKGROUND INFORMATION:

Zoning:

Site: CD 2 (Tract III) (Conservation District)
North: CD 2 (Tract III) (Conservation District)
South: CD 2 (Tract III) (Conservation District)
East: CD 2 (Tract III) (Conservation District)
West: CD 2 (Tract III) (Conservation District)

Land Use:

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

Zoning/BDA History:

1. BDA 078-013, 6602 Avalon Avenue, the subject site

On February 13, 2008, the Board of Adjustment Panel B granted requests for variances to the front yard setback regulations of 37' and to the side yard setback regulations of 6'. The board imposed the following condition with these requests: compliance with the submitted site plan is

required. The case report stated that the requests were made in conjunction with adding 2nd floor master bathroom/closet/exercise room atop an approximately 560 square foot garage/single family home “varied” by the Board of Adjustment in 2005.

2. BDA 056-021, 6602 Avalon Avenue, the subject site

On November 16, 2005, the Board of Adjustment Panel B granted requests for variances to the front yard setback regulations of 37’ and to the side yard setback regulations of 6’. The board imposed the following conditions with these requests: compliance with the submitted site plan is required. The case report stated that the requests were made to construct and maintain an approximately 560 square foot garage on an existing single family home.

Timeline:

- May 19, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 3, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”
- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current

Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 2nd floor addition to an existing single family home that appears to be nonconforming as to the front yard setback regulations because that (according to DCAD) it was built in 1941. The proposed 2nd floor addition is to be added atop a portion of the existing nonconforming single family home structure that is located in the 60' front yard setback established in 1988.
- The subject site is located at the southeast corner of Avalon Avenue and Cambria Boulevard. Regardless of how the existing single-family structure is oriented, the subject site has only one 60' front yard setback along Avalon Avenue Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The subject site has a 6' side yard setback on the east side of the site; a 6' side yard setback along the west (or Cambria Boulevard) side of the site since there is no continuity of an established front yard setback to be maintained south of the site since the lot immediately to the south fronts southward to Gaston Avenue, and a 6' rear yard setback on the south side of the site.
- Structures on lots zoned CD 2 (Tract III) are required to provide a minimum rear yard setback of 6'.
- A site plan has been submitted denoting a portion of the existing structure and proposed addition located in the 60' front yard setback. The site plan indicates that the proposed addition is located 52' away the front property line or 8' into the 60' front yard setback.
- The applicant has chosen to only seek variance to the front yard setback regulations for the new construction/addition to the existing structure on the site, and to not seek variance to remedy/address the nonconforming aspect of the existing nonconforming structure that is located in the site's front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- According to DCAD records, the "main improvements" at 6602 Avalon Avenue is a structure built in 1941 with 3,280 square feet of living area and 3,840 square feet of total area. According to DCAD records, the "additional improvements" at 6602 Avalon Avenue is a 560 square foot attached garage and a 560 square foot room addition.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

- It appears from calculations taken from the submitted site plan by the Board Administrator that approximately 60 square feet (or approximately 18 percent) of the approximately 325 square foot 2nd floor addition building footprint is to be located in the site's 60' front yard setback.
- The subject site is zoned CD No. 2, is flat, irregular in shape (approximately 82' on the north, approximately 76' on the south, approximately 125' on the east, and approximately 115' on the west), and according to the application is 0.205 acres (or approximately 8,900 square feet) in area.
- 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 CD 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 2 zoning classification.
- If the Board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which is a structure to be located 52' from the site's front property line (or 8' into the 60' front yard setback).

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment grant application **BDA 123-069** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: Wilson

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

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

FILE NUMBER: BDA 123-070

BUILDING OFFICIAL’S REPORT: Application of Miles L. Mitzner for variances to the front and side yard setback regulations, and a variance to the off-street parking regulations at 11123 W. Ricks Circle. This property is more fully described as an unplatted .24 acre parcel of land in Block 5500 and is zoned R-16(A), which requires a front yard setback of 35 feet, a side yard setback of 10 feet, and a parking space to 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 the street or alley. The applicant proposes to construct a structure and provide a 22 foot front yard setback, which will require a 13 foot variance to the front yard setback regulations, a 2 foot 6 inch side yard setback, which will require a 7 foot 6 inch variance to the side yard setback regulations, and a 5 foot 6 inch enclosed parking space setback, which will require a variance of 14 feet 6 inches to the off-street parking regulations.

LOCATION: 11123 W. Ricks Circle

APPLICANT: Miles L. Mitzner

REQUESTS:

The following appeals have been made in conjunction with constructing and maintaining a single family home structure on a site that is currently undeveloped:

1. a variance to the front yard setback regulations of 13’ is requested to locate and maintain the proposed home structure 22’ from the front property line or 13’ into the required 35’ front yard setback;
2. variances to the side yard setback regulations of up to 7’ 6” are requested to locate and maintain the proposed home as close as 2’ 6” from the site’s side property lines or as 7’ 6” into this required 10’ side yard setbacks; and
3. a variance to the off-street parking regulations of 14’ 6” is requested as the proposed home would have parking spaces enclosed in the proposed garage that would be located 5’ 6” from, according to the Building Official, the ROW easement that will function as an alley line the right-of-way line or as much as 14’ 6” into the required 20’ distance from the ROW easement that will function as an alley line.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION (front and side yard setback variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The lot’s restrictive area, which is about 5,500 square feet less in size than most lots in the R-16(A) zoning district, and its irregular shape preclude the applicant from developing it in a manner commensurate with other developments found on similarly-zoned R-16(A) lots.

STAFF RECOMMENDATION (off-street parking variance):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. Automatic garage doors must be installed and maintained in working order at all times.
3. At no time may the areas in front of the garage be used for parking of vehicles.
4. No parking is allowed in the alley right-of-way/utility corridor.

Rationale:

- The lot’s restrictive area, which is about 5,500 square feet less in size than most lots in the R-16(A) zoning district, and its irregular shape preclude the applicant from developing it in a manner commensurate with other developments found on similarly-zoned R-16(A) lots.
- Granting this request is not contrary to the public interest in that the Sustainable Development and Construction Department Engineering Division Assistant Director has no objections with the condition imposed that no parking is allowed in the alley right-of-way/utility corridor.

BACKGROUND INFORMATION:

Zoning:

Site: R-16 (A) (Single family district 16,000 square feet)

North: R-1ac(A) (Single family district 1 acre)

South: R-16 (A) (Single family district 16,000 square feet)
East: R-16 (A) (Single family district 16,000 square feet)
West: R-16 (A) (Single family district 16,000 square feet)

Land Use:

The subject site is undeveloped. The areas to the north and east are developed with single family uses; and the areas to the south and west are developed with a park use (Northaven Trail).

Zoning/BDA History:

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

Timeline:

- June 3, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 3, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th 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 requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- August 7, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections if certain conditions are

met” commenting “No parking in the alley right-of-way/utility corridor.”

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request focuses on constructing and maintaining a two-story single family home on an undeveloped site, part of which is proposed to be located in the site’s 35’ front yard setback.
- Structures on lots zoned R-16(A) are required to provide a minimum front yard setback of 35’.
- A site plan has been submitted denoting a portion of the proposed single family home to be located 22’ from the site’s front property line (or 13’ into the 35’ front yard setback).
- The site plan shows that approximately 8 percent (or approximately 300 square feet) of the proposed approximately 3,500 square foot building footprint is to be located in the site’s 35’ front yard setback.
- DCAD records indicate “no main improvements” for the property at 1123 W. Rick’s Circle.
- The subject site is triangular in shape and according to the application, is 0.24 acres (or approximately 10,500 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area).
- 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-16(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-16(A) zoning classification.
- If the Board were to grant these side yard variance requests 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 is a structure to be located as close as 2’ 6” from the site’s side property lines or as much as 7’ 6” into the required 10’ side yard setbacks.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- These requests focus on constructing and maintaining a two-story single family home on an undeveloped site, part of which is proposed to be located in the site’s two 10’ side yard setbacks.

- Structures on lots zoned R-16(A) are required to provide a minimum side yard setback of 10’.
- A site plan has been submitted denoting a portion of the proposed single family home located approximately 2’ 6” from the site’s southwestern side property line or 7’ 6” into this 10’ side yard setback, and approximately 5’ from the site’s northern side property line or 5’ into this 10’ side yard setback.
- It appears from the submitted site plan that approximately 2 percent (or approximately 60 square feet) of the proposed approximately 3,500 square foot building footprint is located in the site’s southwestern 10’ side yard setback.
- It appears from the submitted site plan that approximately 13 percent (or approximately 450 square feet) of the proposed approximately 3,500 square foot building footprint is located in the site’s northern 10’ side yard setback.
- DCAD records indicate “no main improvements” for the property at 1123 W. Rick’s Circle.
- The subject site is triangular in shape and according to the application, is 0.24 acres (or approximately 10,500 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area).
- The applicant has the burden of proof in establishing the following:
 - That granting the variances 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant these variance requests 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 is a structure to be located as close as 2’ 6” from the site’s side property lines or as much as 7’ 6” into the required 10’ side yard setbacks.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request focuses on enclosing parking spaces with a garage doors in the proposed garage attached to the proposed single family home, where the parking spaces entered from the right-of-way easement that will function as an alley line the right-of-way line would be located less than the required 20’ distance from this right-of-way line.
- 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

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 enclosed parking spaces in the proposed structure 5' 6" from the ROW easement that will function as an alley line or 14' 6" into the 20' setback line that an enclosed parking space must be from this easement/alley line.
- DCAD records indicate "no main improvements" for the property at 1123 W. Rick's Circle.
- The subject site is triangular in shape and according to the application, is 0.24 acres (or approximately 10,500 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area) where most lots are 16,000 square feet in area.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "No parking in the alley right-of-way/utility corridor."
- 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 R-16(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-16(A) zoning classification.
- If the Board were to grant the variance request of 14' 6", staff recommends imposing the following conditions:
 1. Compliance with the submitted site plan is required.
 2. Automatic garage doors must be installed and maintained in working order at all times.
 3. At no time may the areas in front of the garage be used for parking of vehicles.
 4. No parking is allowed in the alley right-of-way/utility corridor.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment grant application **BDA 123-070** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.
- Automatic garage doors must be installed and maintained in working order at all times
- At no time may the area in front of the garage be used for parking of vehicles.
- Parking is not allowed in the alley, rights-of-ways, or utility corridor.

SECONDED: Wilson

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-074

BUILDING OFFICIAL’S REPORT: Application of Richard Bonner for a special exception to the visual obstruction regulations at 1505 Acapulco Drive. This property is more fully described as Lot 14, Block 5/6915 and is zoned R-13(A), which requires a 20 foot visibility triangle at alley approaches. The applicant proposes to maintain items in a required visibility obstruction triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 1505 Acapulco Drive

APPLICANT: Richard Bonner

REQUEST:

A special exception to the visual obstruction regulations is made in conjunction with maintaining an 8’ high solid wood fence located in the 20’ visibility triangle at the intersection of the alley at Caracas Drive on property developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections” to the requests, meaning that the Engineering Division has determined that no traffic hazard exist.
- The applicant has substantiated how the location of portions of a solid wood fence located in the 20’ visibility triangle at the intersection of the alley at Caracas Drive do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-13(A) (Single family district 13,000 square feet)
North: R-13(A) (Single family district 13,000 square feet)
South: R-13(A) (Single family district 13,000 square feet)
East: R-13(A) (Single family district 13,000 square feet)
West: R-13(A) (Single family district 13,000 square feet)

Land Use:

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

Zoning/BDA History:

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

Timeline:

June 18, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

July 3, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th 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 31, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).
- August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- August 7, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

GENERAL FACTS /STAFF ANALYSIS:

- This request focuses on maintaining an 8' high solid wood fence located in the 20' visibility triangle at the intersection of the alley at Caracas Drive on property developed with a single family home.
- The Dallas Development Code states that a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20' visibility triangles at drive approaches); and
 - between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and an elevation have been submitted showing an 8' solid wood fence located at the intersection of the alley at Caracas Drive.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to maintain an 8' high wood

fence in the 20' visibility triangle at the intersection of the alley at Caracas Drive does not constitute traffic hazards.

- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the item in the visibility triangle be limited to the location, height, and material of that item as shown on these documents.

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment grant application **BDA 123-074** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Wilson

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-078

BUILDING OFFICIAL’S REPORT: Application of Holly Trester, represented by Melissa Saunders, for a special exception to the single family use regulations to authorize more than one electrical utility service or electrical meter at 5431 Lobello Drive. This property is more fully described as Lot 10, Block A/5518 and is zoned R-1ac(A), which requires that a single family dwelling use in a single family, duplex, or townhouse district may be supplied by not more than one electrical utility service, and metered by not more than one electrical meter. The applicant proposes to have an additional electrical utility service or electrical meter on a lot with a single family use, which will require a special exception to the single family use regulations.

LOCATION: 5431 Lobello Drive

APPLICANT: Holly Trester
 Represented by Melissa Saunders

REQUEST:

A special exception to the single family use regulations is requested in conjunction with installing and maintaining an additional electric utility service on a site developed with a single family home/use.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL ELECTRICAL UTILITY SERVICE AND ELECTRICAL METER:

The board may grant a special exception to authorize more than one electrical utility service and/or more than one electrical meter for a single family use on a lot in a single family zoning, duplex, or townhouse district when, in the opinion of the board, the special exception will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties; and 3) not be used to conduct a use not permitted in the zoning district.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize more than one electrical utility service and/or more than one electrical meter for a single family use on a lot in a single family zoning district since the basis for this type of appeal is *when in the opinion of the board*, the special exception will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties; and 3) not be used to conduct a use not permitted in the zoning district.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with a single family home/use. The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

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

Timeline:

- June 25, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 3, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on installing and maintaining a second electrical utility service on a site developed with a single family home/use.
- The Dallas Development Code states that in R-1ac(A) zoning, a lot for a single family use may be supplied by not more than one electrical service, and metered by not more than one electrical meter.
The applicant has submitted a site plan/survey plat of the 1.7 acre subject site that denotes the location of the new meter on the site.
- The application states that the request "will not have an adverse affect on neighboring properties because it will assist in drainage by powering pump to remove standing water."
- The applicant has the burden of proof in establishing that the additional electrical meter to be installed and/or maintained on the site will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties; and 3) not be used to conduct a use not permitted in the zoning district.

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment grant application **BDA 123-078** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD.

SECONDED: Wilson

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-077

BUILDING OFFICIAL’S REPORT: Application of Rudy Diaz for a variance to the front yard setback regulations at 627 N. Clinton Avenue. This property is more fully described as Lot 7, Block 17/3472 and is zoned CD-1 (Subarea 1), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 17 foot 6 inch front yard setback, which will require a 7 foot 6 inch variance to the front yard setback regulations.

LOCATION: 627 N. Clinton Avenue

APPLICANT: Rudy Diaz

REQUEST:

A variance to the front yard setback regulations of 7’ 6” is made in conjunction with enlarging an existing porch structure attached to a multifamily use/structure on the subject site/lot, part of which is proposed to be enlarged/located in the 25’ front yard setback.

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff was unable to conclude how the parcel/subject site differs from other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD 1 zoning classification. The subject site is relatively flat, rectangular in shape, and is 0.17 acres (or approximately 7,500 square feet) in area- a size that appears to be equivalent to others in the zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: CD 1 (Subarea 1) (Conservation District)
North: CD 1 (Subarea 1) (Conservation District)
South: CD 1 (Subarea 1) (Conservation District)
East: CD 1 (Subarea 1) (Conservation District)
West: CD 1 (Subarea 1) (Conservation District)

Land Use:

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

Zoning/BDA History:

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

Timeline:

June 25, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

July 3, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on enlarging an existing porch structure attached to a multifamily structure on the subject site/lot, part of which is proposed to be located in the 25' front yard setback.
- Structures on lots zoned CD 1 (Subarea 1) are required to provide a minimum front yard setback of 25'. The front yard setback must be within 5 feet of the three nearest main uses in the blockface.
- A site plan and an elevation have been submitted denoting a structure (in this case a structure including a stair "structure") located as close as 17' 6" from the front property line or 7' 6" into the 25' front yard setback. (The remaining part of the structure that is to be enlarged vertically is located 21' from the front property line or 4' into the 25' front yard setback).
- According to DCAD records, the "main improvement" at 627 N. Clinton Avenue is a structure built in 1914 with 2,856 square feet of living area and 2,856 square feet of total area. According to DCAD records, the "additional improvements" at 627 N. Clinton Avenue is a 612 square foot room addition and a 144 square foot storage building.
- The existing structure that the applicant intends to enlarge appears to be a nonconforming structure given that according to DCAD the structure was built in 1914 and that the City of Dallas zoning ordinance was created in 1965.

- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that other than when the owner acts to intentionally destroy the nonconforming structure, a person may renovate, remodel, repair, or enlarge a nonconforming use if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- In this case, the applicant is required to seek variance since he proposes to enlarge the existing nonconforming porch structure building footprint vertically. The work that the applicant proposes is causing the nonconforming structure to become more nonconforming is related to enlarging the existing footprint of the porch by adding a roof over the entire existing porch footprint – presently the roof over the porch is not in the required setback and only covers a small area of the footprint.
- The proposed roof is to cover the entire approximately 330 square foot nonconforming porch structure of which from calculations taken from the submitted site plan by the Board Administrator it appears that approximately 130 square feet (or approximately 1/3) is to be located in the site’s 25’ front yard setback.
- The subject site is relatively flat, rectangular in shape, and according to the application, is 0.17 acres (or approximately 7,500 square feet) in area. The site is zoned CD 1 (Subarea 1).
- 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 CD 1 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 1 zoning classification.
- If the Board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which is a structure to be located as close as 17’ 6” from the site’s front property line or as much as 7’ 6” into the 25’ front yard setback.

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: Rudy Diaz, 627 N. Clinton Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Gillespie

I move that the Board of Adjustment, in Appeal No. **BDA 123-077**, on application of Rudy Diaz, grant a 7 foot, 6 inch variance to the front yard setback regulations 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: Gaspard

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-081

BUILDING OFFICIAL’S REPORT: Application of Karl A. Crawley for a variance to the off-street parking regulations and a special exception to the landscape regulations at 2912 Maple Avenue. This property is more fully described as Lot 7 and part of Lots 5 and 9, Block 7/944 and is zoned PD-193 (LC), which requires off-street parking to be provided and mandatory landscaping. The applicant proposes to maintain a structure for office use and provide 8 of the required 13 parking spaces, which will require a 5 space variance to the off-street parking regulations, and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2912 Maple Avenue

APPLICANT: Karl A. Crawley

August 21, 2013 Public Hearing Notes:

- The applicant submitted additional documentation to the Board at the public hearing that included a revised landscape plan (see Attachment D).

REQUESTS:

The following appeals have been made on a site that is currently developed with a vacant structure:

1. A variance to the off-street parking regulations according to the application submitted in June of 5 spaces (or a 38 percent reduction of the 13 required off-street parking spaces that are required) or according to a letter and revised site/landscape plan submitted in July of 3 spaces (or a 23 percent reduction of the 13 required off-street parking spaces) is requested in conjunction with leasing and maintaining the existing approximately 4,600 square foot structure with office use where the applicant proposes to provide 8 (or 62 percent) or 10 (or 77 percent) of the 13 required off-street parking spaces.

2. A special exception to the PD 193 landscape regulations is requested in conjunction with increasing nonpermeable coverage of the lot, and not fully complying with the landscaping requirements of PD 193.

STANDARD FOR A VARIANCE:

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

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

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:

PD 193 specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATIONS (variance):

Denial

Rationale:

- While the Sustainable Development and Construction Department Engineering Division Assistant Director has indicated no objections to the request, meaning it may not be contrary to the public interest, staff is unable to conclude that there is an unnecessary hardship as the parcel/subject site does not differ from other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (LC) zoning classification. The subject site is flat, rectangular in shape and according to the application, is 10,144 square feet in area. The features of this site do not preclude the applicant from leasing the existing structure with a number of uses permitted in the zoning district where an off-street parking variance reduction request would not be necessary.

- The applicant has not substantiated how this variance for a specific use (office) is not needed to relieve a self created hardship.

STAFF RECOMMENDATION (landscape special exception):

Denial

Rationale:

- The Chief Arborist recommends denial of the proposed landscape plan because the applicant has not substantiated that this request will not compromise the spirit and intent of the landscaping requirements of PD 193.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light commercial)
North: PD 193 (GR) (Planned Development District, General retail)
South: PD 193 (LC) (Planned Development District, Light commercial)
East: PD 193 (LC) (Planned Development District, Light commercial)
West: PD 193 (LC) (Planned Development District, Light commercial)

Land Use:

The subject site is developed with a vacant structure. The areas to the north, east, south, and west are a mix of office and retail uses.

Zoning/BDA History:

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

Timeline:

- June 28, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 3, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 5, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

July 30, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

August 8, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application and discussed at the August 6th staff review team meeting (see Attachment B).

August 7, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's request for a variance to the off-street parking regulations marked "Has no objections."

August 9, 2013: The City of Dallas Chief Arborist submitted a memo (with attached photos) that provided his comments regarding the request for a special exception to the landscape regulations (see Attachment C).

GENERAL FACTS/ STAFF ANALYSIS (off-street parking variance):

- This request focuses on leasing and maintaining the existing approximately 4,600 square foot structure with office use where the applicant proposes to provide 8 (or 62 percent) of the required 13 required off-street parking spaces.
- The subject site is zoned PD 193 (LC). PD 193 states that the parking requirement for "office" use to be one space per 366 square feet of floor area.
- Dallas Development Code Section 51A-311(a)(6) states that the Board of Adjustment *shall not* grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or

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

- Therefore, because the applicant seeks a parking reduction request for office use beyond 35 percent and since PD 193 does not make references to the existing off-street parking regulations in Chapter 51 or Chapter 51(A), the applicant may only apply for a *variance* and only the variance standard applies on this request to reduce the off-street parking regulations.
- Therefore, because the applicant seeks a parking reduction request for office use beyond 35 percent and since PD 193 does not make references to the existing off-street parking regulations in Chapter 51 or Chapter 51(A), the applicant may only apply for a *variance* and only the variance standard applies on this request to reduce the off-street parking regulations.
- DCAD records indicate that the improvements at 2912 Maple Avenue is a “converted residence” with 6,440 square feet built in 1923.
- The site is flat, rectangular in shape, and according to the application, is 10,144 square feet in area. The site is zoned PD 193 (LC).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations of will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site (that differs from other parcels of land by being of such a restrictive area, shape, or slope) that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (LC) 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 PD 193 (LC) zoning classification.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked “Has no objections.”

GENERAL FACTS/STAFF ANALYSIS (landscape special exception):

- This request focuses on increasing nonpermeable coverage of the lot, and not fully complying with the landscaping requirements of PD 193.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the submitted revised landscape plan/landscape special exception request

(see Attachment C) stating, among other things, how the request is triggered by the new addition of nonpermeable coverage on the property without a landscape permit.

- The arborist's memo lists the following ways in which the applicant's alternate revised landscape plan is deficient to the PD 193 Landscaping Requirements:
 1. Designated landscape areas: The plan provides less than 10 percent of lot and less than 60 percent front yard with insufficient front yard general planting and special planting.
 2. Off-street parking and screening: The plan provides less than 42" tall screening material-the maximum the provided "dwarf harbor nandina" is 3 feet.
 3. Sidewalks: Sidewalks are currently provided at 4' wide - the district requires sidewalk to be a minimum 6' and between 5' -12' from back of curb.
 4. Trees: The plan provides two, 3.5" large canopy trees outside of the tree planting zoned but in the parkway – the district requires a tree planting zone between 2.5' – 5' from back of curb.
- The arborist's memo lists the following factors for consideration:
 1. There is adequate space within the front yard to prepare protected allowable space for planting one or more trees in the property front yard and spaced further away from overhead utility lines.
 2. The plan indicates automatic irrigation will be provided for all new landscaping.
 3. Raised planting beds were constructed along the front and sides of the structure.
 4. Three new crepe myrtles are to be placed in tree wells in the side yard.
 5. Two existing large pecan trees are to be retained on the site with no long term prognosis determined, however, where both trees have been impacted to some degree by pavement work.
 6. According to recent publicly available images (which are part of Attachment C), trees were removed during, or prior to, the work to increase the nonpermeable coverage.
- The City of Dallas Chief Arborist recommends denial of this request because the owner has not demonstrated "the special exception will not compromise the spirit and intent of this section." The arborist suggests that if the board determines in favor of the request, that they impose the following condition:
 - "If an existing pecan tree is removed, it must be replaced with another tree of similar species under the size specifications in 51P-193.126(b)(9), General Maintenance. In addition, the tree removal must be fully mitigated per Article X of the Dallas Development Code."
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting designated landscape area, off-street parking and screening, sidewalk, and tree provisions of PD 193 landscaping requirements) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request, imposing the applicant's submitted revised alternate landscape plan as a condition, the site would be provided exception to the designated landscape area, off-street parking and screening, sidewalk, and tree provision requirements of the Oak Lawn PD 193 landscape ordinance.

BOARD OF ADJUSTMENT ACTION: AUGUST 21, 2013

APPEARING IN FAVOR: Karl Crawley, 900 Jackson Street, #640 Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Gaspard**

I move that the Board of Adjustment, in Appeal No. **BDA 123-081**, on application of Karl Crawley, hold this matter under advisement until **September 18, 2013**.

SECONDED: **Leone**

AYES: 5– Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION: **Wilson**

I move to adjourn this meeting.

SECONDED: **Gaspard**

AYES: 5 – Reynolds, Gillespie, Wilson, Leone, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

1:35 P.M. Board Meeting adjourned for **August 21, 2013**.

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.