

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
THURSDAY, FEBRUARY 22, 2018**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Cheri Gambow, regular member, Ryan Behring, regular member and Benjamin Halliday, alternate member

MEMBERS ABSENT FROM BRIEFING: Robert Agnich, regular member

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Cheri Gambow, regular member, Ryan Behring, regular member and Benjamin Halliday, alternate member

MEMBERS ABSENT FROM HEARING: Robert Agnich, regular member

STAFF PRESENT AT BRIEFING: Neva Dean, Asst. Director of Sustainable Development and Construction, Steve Long, Board Administrator/Chief Planner, Oscar Aguilera, Senior Planner, Kanesia Williams, Asst. City Atty., David Navarez, Engineer, Charles Trammell, Development Code Specialist, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Neva Dean, Asst. Director of Sustainable Development and Construction, Steve Long, Board Administrator/Chief Planner, Oscar Aguilera, Senior Planner, Kanesia Williams, Asst. City Atty., Charles Trammell, Development Code Specialist, and Trena Law, Board Secretary

11:14 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 22, 2018** docket.

1:04 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, December 11, 2017 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 22, 2018

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA178-019(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the fence standards at 5539 Falls Road. This property is more fully described as Lot 12, Block 5/5606, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence standards.

LOCATION: 5539 Falls Road

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the fence standards related to height regulations of 6' is made on a site being developed with a single family home to construct and maintain the following:

- a 7' 3" high open wrought iron fence with 8' stone columns and a 10' high open wrought iron entry gate flanked by 9' high stone columns parallel to the street;
- a 7' 3" high open wrought iron fence perpendicular to the street on the west side of the site in the front yard setback; and
- a 5' 9" high open wrought iron fence perpendicular to the street on the east side of the site in the front yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602(a)(11) 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.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA145-029, Property at 5522 Falls Road (two lots southwest of the subject site)

On March 17, 2015, the Board of Adjustment Panel A granted requests for a special exception to the fence standards regulations of 7' 1" for a fence in the front yard setback and 3' 6" for a fence in the side yard setback, and imposed the following condition: Compliance with submitted revised site plan/elevation is required.

The case report stated the requests were made to construct and maintain in the front yard setback parallel to the street an approximately 90' long, 5' high open wrought iron fence with two entry features that include 8' high open wrought iron gates flanked by 6' – 7' high masonry walls and caps; perpendicular to the street on the east side: an approximately 38' long, 5' high open wrought iron fence, with 6'- 7' high masonry columns, and perpendicular to the street on the west side: an approximately 23' long, 5' high open wrought iron fence, and an approximately 15' long, 10' 7" high fence (8' wood fence atop a 2' 7" high retaining wall) with 11' 1" high masonry columns; and in the side yard setback on the east side of the site an approximately 70' long, 12' 6" high masonry fence with 12' 6" high columns on a site being developed that was being with a single family home.

2. BDA178-017, Property at 5530 Falls Road (the lot southwest of the subject site)

On February 20, 2018, the Board of Adjustment Panel A will consider a request for a special exception to the fence standards regulations related to fence height of 2' 6" made to construct and maintain a 6' high open wrought iron fence and gate with 6' 6" high brick columns in the front yard setback; and special exceptions to the visual obstruction regulations made to locate and maintain portions of the aforementioned 6' high open wrought iron fence/gate and 6' 6" high brick columns located in one of two or both, 20' visibility triangles on both sides of the driveway into the site from this street.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception to the fence standards related to height focuses on constructing and maintaining a 7' 3" high open wrought iron fence with 8' stone columns and a 10' high open wrought iron entry gate flanked by 9' high stone columns parallel to the street; a 7' 3" high open wrought iron fence perpendicular to the street on the west side of the site in the front yard setback; and a 5' 9" high open wrought iron fence perpendicular to the street on the east side of the site in the front yard setback on a site being developed with a single family home.
- 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 4' above grade when located in the required front yard.
- The property is located in an R-1ac(A) zoning district which requires a minimum front yard setback of 40 feet.
- The submitted site plan/elevation indicates that the proposal would reach a maximum height of 10' to account for height of the entry gate.
- The submitted site plan denotes the following:
 - The proposal in the front yard setback is represented as being approximately 100' in length parallel to this street and approximately 37' in length perpendicular to the street on the east and west sides of the site in the front yard setback.
 - The proposal is represented as being located approximately 3' from the front property line, and approximately 20' from the pavement line.
- A single family lot fronts the proposal on the subject site. While this lot has a fence in its front yard setback, it appears to be 4' or less in height.
- The Board Administrator conducted a field visit of the site and surrounding area on the street from Hollow Way Drive to Hathaway Street and noted one other fence that

appeared to be over 4' in height and in a front yard setback. This fence (a 5' high open wrought iron fence with two entry features that include 8' high open wrought iron gates flanked by 6' – 7' high masonry walls and caps) is located two lots southwest of the subject site and appears to be a result of special exceptions to the fence standards granted by the Board in 2015 (see the "Zoning/BDA History" section of this case report for additional details).

- As of February 9, 2018, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards related to fence height of 6' will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be located in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

December 7, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 5, 2018: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 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.

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 22, 2018

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm St., Dallas, TX
Harold Leidner, 1601 Surveyor Blvd., Carrollton, TX

APPEARING IN OPPOSITION: No one

MOTION: **Behring**

I move that the Board of Adjustment, in Appeal No. **BDA 178-019**, on application of Robert Baldwin, **grant** the request of this applicant to construct and maintain a 10-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Halliday**

AYES: 4 - Richardson, Gambow, Behring, Halliday

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-021(SL)

BUILDING OFFICIAL’S REPORT: Application of Karl A. Crawley of Masterplan for special exceptions to the fence standards at 9823 Preston Road. This property is more fully described as Lot 4, Block 2/5515, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet, and requires a fence panel with a surface area that is

less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and maintain a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence standards, and to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 9823 Preston Road

APPLICANT: Karl A. Crawley of Masterplan

REQUESTS:

The following requests have been made on a site that is currently developed with a single family home structure:

1. A special exception to the fence standards related to fence height of 4' is made to:
 - In part, maintain an existing, approximately 250' long, 6.5' high stone fence with 7' high columns that, according to the applicant, has been on the property since the 1940's, and adding to this existing fence and columns approximately 1.5' high wall/column caps in the front yard setback;
 - In part, extend the existing, approximately 220' long stone fence that is proposed to be raised in height to 7' 6" with 8' high columns approximately 30' northward in the front yard setback;
 - In part, construct and maintain new 6' and 7' 6" high iron fences to be located perpendicular to the street in the front yard setback behind the existing fence that runs parallel to the street in the front yard setback.
2. A special exception to the fence standards related to fence panel materials/location from the front lot line is made to:
 - In part, maintain and construct/maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned fences) located in the site's front yard setback and as close as on the front lot line (or less than 5' from the front lot line).
 - Note that the applicant's submittal of a revised site plan/elevation eliminated the part of the original proposal made to replace an existing entry gate and entry fence walls with a 7' 6" high iron entry gates flanked by 10' high entry gate columns and a 7' 6" high entry walls with 8' high columns. While this application was advertised and noticed for a special exception to the fence standards regulations of 6', the applicant is now seeking a special exception to the fence standards regulations of 4' to account for a proposal with a maximum height of 8' with the submittal of a revised site plan/elevation.

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.

Zoning:

- Site: R-10(A) (Single family district 10,000 square feet)
- North: R-10(A) (Single family district 10,000 square feet)
- South: R-10(A) (Single family district 10,000 square feet)
- East: R-10(A) (Single family district 10,000 square feet)
- West: R-10(A) (Single family district 10,000 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:

- 1. BDA167-062, Property located at 9823 Preston Road (the subject site) On May 15, 2017, the Board of Adjustment Panel C granted a request for a special exception to the single family use development standard regulations made to construct and maintain a 2-story recreation addition structure /additional “dwelling unit” structure on a site developed with a 2-story main single family home/dwelling unit structure.

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the fence standards related to height and fence panel materials/location from a front lot line focus on:
 - 1) maintaining an existing, approximately 250’ long, 6.5’ high stone fence with 7’ high columns that, according to the applicant, has been on the property since the 1940’s, and adding to this existing fence and columns approximately 1.5’ high wall/column caps in the front yard setback on columns that, according to the applicant, has been on the property since the 1940’s,
 - 2) extending the existing, approximately 250’ long stone fence that is proposed to be raised in height to 7’ 6” with 8’ high columns approximately 30’ northward in the front yard setback;

- 3) constructing and maintaining new 6' and 7' 6" high iron fences to be located perpendicular to the street in the front yard setback behind the existing fence that runs parallel to the street in the front yard setback; and
 - 4) maintaining and constructing/maintaining a fence with panels with surface areas that are less than 50 percent open (the aforementioned fences described earlier) located in the site's front yard setback and as close as on the front lot line (or less than 5' from the front lot line).
- The property is located in an R-10(A) zoning district which requires a minimum front yard setback of 30 feet.
 - 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 4' above grade when located in the required front yard.
 - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than 5' from the front lot line.
 - The originally submitted site plan/elevation that had denoted a portion of the proposal that reached 10' in height for two stone entry gate columns was replaced by a revised site plan/elevation that represents the highest component of the proposal to be 8' in height for columns (see Attachment A).
 - The submitted revised site plan/elevation eliminates part of the original proposal that involved replacing the existing entry gate and entry fence walls with a 7' 6" high iron entry gates flanked by 10' high entry gate columns and a 7' 6" high entry walls with 8' high columns.
 - The revised site plan/elevation denotes that the existing fence and the proposed extension located on the front lot line and approximately 11' from the pavement line.
 - The proposal is located across from single family lots neither with fences in a front yard setback.
 - The Board Administrator conducted a field visit of the site and surrounding area along Preston Road approximately 500' north and south of the subject site and noted one other fence that appeared to be above 4' in height and in a front yard setback: an approximately 5' – 7' high stucco fence immediately north of the subject site with no recorded BDA history.
 - As of February 9, 2018, no letters have been submitted in support of or in opposition to these requests.
 - The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setback and materials/height of the proposed fence from the front lot line will not adversely affect neighboring property.
 - Granting one and/or both of these special exceptions with a condition imposed that the applicant complies with the submitted revised site plan/elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be constructed and maintained in the location and of the heights and materials as shown on this document – fence/gate/columns in the site's front yard setback over 4' in height and with fence panels less than 50 percent open located on the front lot line.

Timeline:

- December 13, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C. Even though Board of Adjustment Panel C granted a special exception to the single family use regulations on this property in May of 2017, the assignment of this application for fence standard special exceptions did not conflict 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” – a fence standard special exception request is not the same request as a single family use regulations special exception request.
- January 5, 2018: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 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.
- February 6, 2018: The applicant submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 22, 2018

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Behring

I move to grant that the Board of Adjustment grant application **BDA 178-021(SL)** 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 condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Gambow

AYES: 4 - Richardson, Gambow, Behring, Halliday

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-024(SL)

BUILDING OFFICIAL'S REPORT: Application of Jackson Walker L.L.P/Jonathan G. Vinson for a variance to the height regulations at 1801 Lone Star Drive. This property is more fully described as Tract 2, Block 6158, and is zoned IM, which limits the maximum building height to 110 feet. The applicant proposes to construct and maintain a structure with a building height of 170 feet, which will require a 60 foot variance to the height regulations.

LOCATION: 1801 Lone Star Drive

APPLICANT: Jackson Walker L.L.P/Jonathan G. Vinson

February 22nd Public Hearing Notes:

- The Board Administrator circulated additional written documentation submitted by the applicant to the Board members at the briefing (see Attachment C).

REQUEST:

A request for a variance to the height regulations of 60' is made to construct and maintain structures that, according to the application, total 170' in height "in certain specific locations" (or exceed the 110' maximum structure height) on a site that is developed with an "industrial (outside) not potentially incompatible" use (Buzzi Unicem USA).

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Denial

Rationale:

- While staff recognized that the 12.5 acre subject site was irregular in shape, and with a city drainage easement on the west side of the site that is described by the applicant as "almost one acre in size and is up to 60 to 70 feet wide in places", staff concluded based on what had been submitted at the time of the February 6th staff review team meeting that the applicant had not substantiated how these or any other feature of the site precludes him from developing it in a manner commensurate with the development upon other parcels of land with the same IM zoning - the site is currently developed with an "industrial (outside) not potentially incompatible" use that complies with all aspects of the Dallas Development Code.
- While the applicant has stated that the purpose of the proposed project (i.e. structures requiring height variance) is to provide a more efficient cement distribution system (whereby the added silo would provide a more continuous cement supply to its customers), staff concluded based on what had been submitted at the time of the February 6th staff review team meeting that the applicant had not substantiated how

if the Board were to grant this request for height variance it would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

Site: IM (Industrial/manufacturing)
North: IR (Industrial/research)
South: IR (Industrial/research)
East: IM (Industrial/manufacturing)
West: IR (Industrial/research)

Land Use:

The subject site is developed an “industrial (outside) not potentially incompatible” use (Buzzi Unicem USA). The areas to the north, south, east, and west are developed with industrial/warehouse uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- The request for a variance to the maximum structure height of 60’ focuses on what is described in a letter submitted by the applicant, two improvements to the existing facility - an “industrial (outside) not potentially incompatible” use (Buzzi Unicem USA): “a higher capacity storage tank approximately 135’ in height, and a more efficient and improved bucket elevator structure approximately 152’ in height. The structures supporting this equipment may be higher, but would be within the 60’ in additional height being requested”. The application, however, states that a variance of 60’ is made, “in certain specific locations (total of 170 feet), to the otherwise allowable 110 feet under IM zoning, subject to a site plan”.
- The site is zoned IM (Industrial/manufacturing).
- The maximum structure height on properties zoned IM (Industrial/manufacturing) is 110’ unless further restricted by the residential proximity slope which this site is not.
- Section 51A-2.102(47) of the Dallas Development Code provides the following definition for “height”: “Height means the vertical distance measured from grade to: (A) for a structure with a gable, hip, or gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure; (B) for a structure with a dome, the midpoint of the vertical dimension of the dome; and (C) for any other structure, the highest point of the structure”.
- Section 51A-2.102(45) of the Dallas Development Code provides the following definition for “grade”: “Grade means the average of the finished ground surface elevations measured at the highest and lowest exterior corners of a structure. For

purposes of this definition, finished ground surface elevation means the ground surface elevation of a building site before any construction or ground surface elevation as altered in accordance with grading plans approved by the building official. Finished ground surface elevation does not include: (A) fill material not necessary to make the site developable; (B) berms; or (C) landscape features”.

- Section 51A-2.102(135) of the Dallas Development Code provides the following definition for “structure”: “Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner”.
- On February 5, 2018, the applicant emailed the following response to Board Administrator’s request as to whether a site plan and elevation/section had been submitted that represents the structures that are requiring variance to height regulations:
 - “Please see pages 23, 25, and 27 of the attached “Attach A” pdf. Oversized, dimensioned copies of these three items (without the annotations in red on pp. 23, 25, and 27, or the green highlighting on p. 23, of the “Attach A” pdf) were submitted with our application, see pp. 5,6, and 7 of the “Application Materials” pdf. These are the exact same drawings. I have explained to the Applicant that by submitting the site plan and elevations attached as pp. 5, 6, and 7 of the “Application Materials” pdf the Board will likely elect to condition us to those drawings in the event that the request is approved”. (Note that one of the elevations noted represents an approximately 152’ high structure; the other elevation notes a 135’ high structure”.
 - According to DCAD records, the “improvements” at 1801 Lone Star Drive are: a 5,896 square foot “storage warehouse” built in 1908; a 9,576 square foot “storage warehouse” built in 1947; a 1,260 square foot “storage warehouse” built in 1995; and a 1,680 square foot “office building” built in 1995.
 - The subject site is flat, irregular in shape, and according to the submitted application is 12.59 acres in area. The site is zoned IM (Industrial/manufacturing).
 - The applicant has submitted a document that notes, among other things, a city drainage easement on the west side of the site that is described by the applicant has “almost one acre in size and is up to 60 to 70 feet wide in places”.
 - The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height 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 IM (Industrial/manufacturing) 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 (Industrial/manufacturing) zoning classification.

- If the Board were to grant the height variance request of 60', and impose the submitted site plan and elevations identified by the applicant as a condition, the building footprint and height of the structure on the site would be limited to what is shown on these documents.

Timeline:

December 14, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 5, 2018: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 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."

January 31, 2018 The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

February 9, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

(Note that this information was not factored into the staff recommendation since it was submitted after the February 6th staff review team meeting).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 22, 2018

APPEARING IN FAVOR: Jonathan Vinson, 2323 Ross Ave., Dallas, TX

APPEARING IN OPPOSITION: Stephanie Champion, 400 S. Zang Blvd, Dallas, TX
Debra Moore, 3739 Homeland St., Dallas, TX
Enrique Chavez, 4615 Singleton, Dallas, TX
Debbie Solis, 2322 Kenesaw Dr., Dallas, TX
Susybelle Gosslee, 9511 Faircrest Dr., Dallas, TX
Victor Toledo, 3100 Singleton, Dallas, TX
Jim Schermbeck, 1808 Good Latimer, Dallas, TX
Ronnie Mesfas, 3215 Rutz St., Dallas, TX

MOTION: Gambow

I move that the Board of Adjustment, in Appeal No. **BDA 178-024**, on application of Jonathan Vinson, **deny** the 60-foot variance requested by this applicant **with 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, (and/or) that it is not a restrictive 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/or) is a self-created or personal hardship..

SECONDED:

AYES: 4 - Richardson, Gambow, Behring, Halliday

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

MOTION: Richardson

I move to adjourn this meeting.

SECONDED: Gambow

AYES: 4 – Richardson, Gambow, Behring, Halliday

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

2:32 P. M. - Board Meeting adjourned for **February 22, 2018**

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.