



BOARD OF ADJUSTMENT

Panel A Minutes

July 16th, 2024

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CITY SECRETARY
DALLAS, TEXAS

6ES Council Briefing
24923176153@dallascityhall.webex.com

David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Michael Hopkovitz	
Jay Narey	
Andrew Finney	
Nicholas Brooks	

ABSENT: [0]

Rachel Hayden	
Kathleen Davis	

Chairman David A. Neumann called the briefing to order at **10:09 A.M.** with a quorum of the Board of Adjustment present.

Chairman David A. Neumann called the hearing to order at **1:00 P.M.** with a quorum of the Board of Adjustment present.

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.

PUBLIC SPEAKERS

The Board of Adjustment provided "public speaker" opportunities for individuals to comment on matters that were scheduled on the agenda or to present concerns or address issues that were not matters for consideration listed on the posted meeting agenda.

- We had no speakers for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A, June 18th, 2024, Meeting Minutes.

Motion was made to approve Panel A, June 18th, 2024, Public Hearing Minutes.

Maker:	Nicholas Brooks				
Second:	Andrew Finney				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

CONSENT ITEMS

**1. 5711 Deloache Avenue
 BDA234-081(BT)**

BUILDING OFFICIAL’S REPORT: Application of Jennifer Hiromoto for (1) a special exception to the fence height regulations, (2) a special exception to the fence standards regulations, and for (3) a special exception to the fence height regulations at **5711 DELOACHE AVE**. This property is more fully described as Block 8/5598, 1.716 acre tract, and is zoned R-1ac(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, and limits the height of a fence in the side-yard to 9-feet. The applicant proposes to construct and/or maintain a 10-foot 4-inch-high fence in a required front-yard, which will require (1) a 6-foot 4-inch special exception to the fence height regulations, and to construct and/or maintain a fence structure 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 (2) a special exception to the fence standards regulations, and to construct and/or maintain a 10-foot 4-inch-high fence in a required side-yard, which will require (3) a 1-foot 4-inch special exception to the fence regulations.

LOCATION: 5711 Deloache Ave.

APPLICANT: Jennifer Hiromoto

REQUEST:

- (1) A request for a special exception to the fence height regulations;
- (2) A request for a special exception to the fence standard regulations; and
- (3) A request for a special exception to the fence height regulations

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT AND FENCE OPACITY STANDARD REGULATIONS:

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

STAFF RECOMMENDATION:

Special Exceptions (3):

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A)
North: R-1ac(A)
East: R-1ac(A)
South: R-1ac(A)
West: R-1ac(A)

Land Use:

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

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Jennifer Hiromoto for the property located at 5711 Deloache Ave. focuses on 3 requests relating to the fence height and fence opacity regulations.
- The first request is for a special exception to the fence height regulations. The applicant is proposing to construct and maintain a 10-foot 4-inch high gate and fence in a required front-yard, along Deloache Ave., which will require a 6-foot 4inch special exception to the fence height regulations.
- Secondly, the applicant is proposing 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 requires a special exception to the fence opacity regulations.
- Lastly, the applicant is proposing to construct and maintain a 10-foot 4-inch high gate and fence in a required side-yard, along Dallas North Tollway, which will require a 1-foot 4inch special exception to the fence height regulations.
- The subject site along with surroundings properties to the north, south, east and west are all developed with single-family homes.
- As illustrated on the submitted site plan and elevations, the applicant is proposing a combination of stone, metal and masonry wall along Deloache Ave. located on the front property line.

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- As illustrated on the submitted site plan and elevations, the applicant is proposing a combination of stone veneer columns and cement stucco finish over CMU along Dallas North Tollway located on the side property line.
- Based upon staff's analysis of the surrounding properties, some properties provided a fence and gate in the required front yard and/or some provided a form of vegetation serving as a screening mechanism along Dallas North Tollway.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height and opacity will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-081 5711 Deloache Ave](#)

Timeline:

- May 16, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

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Speakers:

For: No Speakers

Against: No Speakers

Motion

I move that the Board of Adjustment **GRANT** the following applications listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA 234-081 – Application of Jennifer Hiromoto for a special exception to the fence height regulations in the front-yard of the Dallas Development Code is granted subject to the following condition:

Compliance with height and fence location requirements illustrated in the most recent version of all submitted plans are required.

BDA 234-081 – Application of Jennifer Hiromoto for a special exception to the fence opacity regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

BDA 234-081 – Application of Jennifer Hiromoto for a special exception to the fence height regulations in the side-yard of the Dallas Development Code is granted subject to the following condition:

Compliance with height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Andrew Finney				
Second:	Jay Narey				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

2. 7117 Churchill Way

This item was moved to Individual Cases

BDA234-082(CJ)

BUILDING OFFICIAL’S REPORT: Application of Monica Hernandez for (1) a special exception to the fence height regulations at 7117 Churchill Way. This property is more fully described as Block A/7463, Lot 2, and is zoned R-1/2ac(A), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain a 7-foot 6-inch-high fence in a required front yard, which will require (1) a 3-foot 6-inch special exception to the fence height regulations.

LOCATION: 7117 Churchill Way

APPLICANT: Monica Hernandez

REQUEST:

- (4) A request for a special exception to the fence height regulations.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence opacity regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exception (1):

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

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 7117 Churchill Way in the last 5 years.

Square Footage:

- This lot contains 54,400.002 of square feet.
- This lot is zoned R-1/2 ac (A) which has a minimum lot size of 21,780 square feet or 0.50 ac.

Zoning:

Site: R-1/2ac (A) (Single Family District)
North: R-1/2ac (A) (Single Family District)
East: Planned Development 381 Zoning District
South: Planned Development 381 Zoning District
West: Planned Development 381 Zoning District

Land Use:

The subject site and surrounding properties to the north, east and south are developed with single-family uses. Properties to the east are developed with uses permissible in Planned Development 381.

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Monica Hernandez property located at 7117 Churchill Way focuses on one request relating to fence height regulations.
- The applicant proposes to construct and 7-foot-6-inch high fence in a required front yard, which will require a 3-foot 6-inch special exception to the fence height regulations.
- The required front yard setback in R-1/2ac (A) Zoning District is 40 feet.

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- The subject site along with properties to the north, south, east and west are all developed with single-family homes and a park.
- The submitted site plan and elevations shows the applicant is proposing to construct a 7-foot 6-inch high fence in the required front yard of the property at 7117 Churchill Way.
- The proposed fence is material is wrought iron connected by stone columns.
- The subject site is a mid-block lot, and it has single street frontage on Churchill Way.
- Per staff's review of the subject site, it has been confirmed that the fence is proposed and not existing.
- The subject site sits directly across the street from The Estates of Lake Forest gated community which is surrounded by a brick HOA/community fence.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations relating to height will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-082 at 7117 Churchill Way](#)

Timeline:

- May 16, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief

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Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Monica Hernandez, 7821 Pennington Ct, Plano TX 75025

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-082, on application of Monica Hernandez, **DENY** the special exception requested by this applicant to construct and/or maintain a 7-foot 6-inch high fence **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Nicholas Brooks				
Second:	Michael Hopkovitz				
Results:	5-0 Unanimously				Motion to deny
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

3. 938 N. Clinton Avenue

This item was moved to Individual Cases

BDA234-089(CJ)

BUILDING OFFICIAL’S REPORT: Application of Christopher Crowder for (1) a special exception to the visibility obstruction regulations at 938 N. Clinton Ave. This property is more fully described as Block 4/3455, Lot 11, and is zoned CD-1, which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (1) a special exception to the visibility obstruction regulation.

LOCATION: 938 North Clinton Avenue

APPLICANT: Christopher Crowder

REQUEST:

(5) A special exception to the 20-foot visibility obstruction regulations at the drive approach.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board may grant a special exception to the visual obstruction regulations when in the opinion of the board, **the special exception will not constitute a traffic hazard.**

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this or any request for a special exception since the basis for this type of appeal is when in the opinion of the board, the special exception will not constitute a traffic hazard.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 938 N. Clinton Ave. in the last 5 years.

Square Footage:

- This lot contains 6,098.4 of square feet.
- This lot is zoned Conservation District #1 / R-7.5(A) which has a minimum lot size of 7,500 square feet.

Zoning:

Site: Conservation District #1 / R-7.5(A)
North: Conservation District #1 / R-7.5(A)
East: Conservation District #1 / R-7.5(A)
South: Conservation District #1 / R-7.5(A)
West: Conservation District #1 / R-7.5(A)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Christopher Crowder property located at 938 North Clinton Avenue focuses on one request relating to the visual obstruction regulations.
- The applicant is proposing to maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require a special exception to the 20-foot visual obstruction regulations at the drive approach.
- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.
- The submitted site plan and elevations shows the applicant is proposing to maintain a 6-foot high fence along the Stewart Drive side of the home; this existing fence has a 10-foot wide gate opening that crosses the driveway and obstructs the required 20-foot visibility triangle at the drive approach.
- The fence is material is board on board wood.
- It is imperative to note that the subject site is a corner lot, and it has double street frontage on Clinton Avenue and Stewart Drive.

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- The front yard of the subject site is along Clinton Avenue and the side yard of the subject site is along Stewart Drive.
- The applicant has stated that the request for special exception has been made due to fixed city features (telephone/electrical poles) along with a fixed housing structure preventing the relocation of the driveway and gate.
- Based upon staff's analysis of the surrounding properties, there are a few homes along Stewart Drive with fences and gates in the required side yard and/or some form of vegetation serving as a screening mechanism.
- Based upon review comments from our Transportation Engineer, the transportation department is not in favor of the proposed encroachment.
- The applicant has the burden of proof in establishing that the special exception to the visual obstruction regulations will not constitute a traffic hazard.
- Granting the special exceptions to the visual obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-089 at 938 N. Clinton Ave.](#)

Timeline:

- May 20, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- July 2, 2024: The Traffic Engineering team provided staff with a review comment

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document.

Speakers:

For: Christopher Crowder, 938 N. Clinton Ave., Dallas TX 75208

Against: None

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-089, on application of Christopher Crowder, **GRANT** the request to maintain items in the 20-foot visibility triangle at the driveway on Stewart Drive as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the most recent version of all submitted plans are required.

Maker:	Andrew Finney				
Second:	Jay Narey				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

4. 10660 Strait Lane

This item was moved to Individual Cases

BDA234-090(BT)

BUILDING OFFICIAL'S REPORT: Application of Andy Onan for (1) a special exception to the fence height regulations; for (2) a special exception to the fence opacity regulations; and for (3) a special exception to the fence material regulations at **10660 STRAIT LN**. This property is more fully described as Block 5518 Lot 4A, and is zoned R-1ac(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; and prohibits the use of certain materials for a fence. The applicant proposes to construct and/or maintain a 13-foot-high fence in a required front-yard, which will require (1) a 9-foot special exception to the fence height regulations; construct and/or 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 (2) a special exception to the fence opacity regulations;, and to construct and/or maintain a fence using a prohibited material, which will require (3) a special exception to the fence material regulations.

LOCATION: 10660 Strait Ln.

APPLICANT: Andy Onan

REQUEST:

- (6) A request for a special exception to the fence height regulations;
- (7) A request for a special exception to the fence standard regulations regarding opacity; and
- (8) A request for a special exception to the fence standard regulations regarding prohibited material

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT, FENCE OPACITY AND FENCE MATERIAL STANDARD REGULATIONS:

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

STAFF RECOMMENDATION:

Special Exceptions (3):

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A)
North: R-1ac(A)
East: R-1ac(A)/SUP-1622
South: R-1ac(A)
West: R-1ac(A)

Land Use:

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

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Andy Onan for the property located at 10660 Strait Ln. focuses on 3 requests relating to the fence height, fence opacity regulations, and prohibited material.
- The first request is for a special exception to the fence height regulations. The applicant is proposing to construct and maintain a 13-foot high gate and fence in a required front-yard, which will require a 9-foot special exception to the fence height regulations.
- Secondly, the applicant is proposing 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 requires a special exception to the fence opacity regulations.

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- Lastly, the applicant is requesting a special exception to the fence standards regulations regarding prohibited material.
- The subject site along with surroundings properties to the north, south and west are all developed with single-family homes.
- Directly to east (behind the subject property) is SUP 1622, The Creeks, a gated residential community.
- As illustrated on the submitted site plan and elevations, the applicant is proposing a combination of wrought iron gate with a chopped limestone veneer wall, located on the front property line.
- Based upon staff's analysis of the surrounding properties, some properties provided a fence and gate exceeding 4-feet above grade in the required front yard and/or some provided a form of vegetation serving as a screening mechanism along Strait Ln.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height and opacity will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-090 10660 Strait Ln](#)

Timeline:

- May 21, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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

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- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

July 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Tommy Mann, 500 Winstead Building, Dallas TX 75201
Morgan Brown, 10660 Strait Lane, Dallas TX 75229

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-090, on application of Andy Onan, **GRANT** the request of this applicant to construct and/or maintain a 13-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, 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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Andrew Finney				
Second:	Jay Narey				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-090, on application of Andy Onan, **GRANT** the request of this applicant to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line as a special exception to the surface area openness requirement for fences 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 opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

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Maker:	Andrew Finney				
Second:	Nicholas Brooks				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-090, on application of Andy Onan, **GRANT** the request of this applicant for a special exception to the fence materials standards contained in the Dallas Development Code, as amended, 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 materials and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Andrew Finney				
Second:	Nicholas Brooks				
Results:	4-1				Motion to grant
		Ayes:	-	4	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and
		Against:	-	1	Michael Hopkovitz

INDIVIDUAL CASES

5. 5503 Monticello Avenue

This Case was moved first at the 1:00 PM Hearing.

BDA234-076_FR1(CJ)

BUILDING OFFICIAL'S REPORT: Application of Michele Stephens for a special exception to the 20-foot visibility obstruction regulations at the drive approach, and for a special exception to the visibility obstruction regulation at the intersection of a street and alley at 5503 MONTICELLO AVE. This property is more fully described as Block H/2176, Lot 1 and is zoned CD-9 (R-7.5(A)) which requires a 20-foot visibility triangle at the driveway approach and requires a 20-foot visibility triangle at the intersection of a street and alley.

LOCATION: 5503 Monticello Avenue

APPLICANT: Michele Stephens

REQUESTS:

The applicant is requesting a fee reimbursement for fees paid for the application of the special exceptions to the visibility triangle regulations at the driveway and for the visibility triangle regulations at the intersection of a street and an alley at 5503 Monticello Avenue which appeared before Panel A on June 18, 2024.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

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

STAFF RECOMMENDATION:

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

Speakers:

For: Michele Stephens, 5503 Monticello Ave, Dallas TX 75206

Against: None

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-076_FR1, on application of Michele Stephens, **GRANT** the request to reimbursement of the filing fees to be paid in association with a request for a special exception to the 20' visibility obstruction at the driveway approach because our evaluation of the property and testimony shows that the payment of the fee would result in substantial financial hardship to this applicant.

Maker:	Nicholas Brooks				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-076_FR1, on application of Michele Stephens, **DENY** the request reimbursement to the filing fees to be paid in association with a request for a special exception to the 20' visibility obstruction at the alley as requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that payment of the fee would NOT result in substantial financial hardship to this applicant.

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Maker:	Michael Hopkovitz				
Second:	Nicholas Brooks				
Results:	5-0 Unanimously				Motion to deny
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

6. 9040 Mercer Drive
BDA234-086(CJ)

BUILDING OFFICIAL’S REPORT: Application of Andy Onan for (1) a special exception to the fence height regulations; for (2) a special exception to the fence opacity regulations; and for (3) a special exception to the fence material regulations at **10660 STRAIT LN**. This property is more fully described as Block 5518 Lot 4A, and is zoned R-1ac(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; and prohibits the use of certain materials for a fence. The applicant proposes to construct and/or maintain a 13-foot-high fence in a required front-yard, which will require (1) a 9-foot special exception to the fence height regulations; construct and/or 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 (2) a special exception to the fence opacity regulations; and to construct and/or maintain a fence using a prohibited material, which will require (3) a special exception to the fence material regulations.

LOCATION: 10660 Strait Ln.

APPLICANT: Andy Onan

REQUEST:

- (9) A request for a special exception to the fence height regulations;
- (10) A request for a special exception to the fence standard regulations regarding opacity; and
- (11) A request for a special exception to the fence standard regulations regarding prohibited material

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT, FENCE OPACITY AND FENCE MATERIAL STANDARD REGULATIONS:

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

STAFF RECOMMENDATION:

Special Exceptions (3):

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A)
North: R-1ac(A)
East: R-1ac(A)/SUP-1622
South: R-1ac(A)
West: R-1ac(A)

Land Use:

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

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Andy Onan for the property located at 10660 Strait Ln. focuses on 3 requests relating to the fence height, fence opacity regulations, and prohibited material.
- The first request is for a special exception to the fence height regulations. The applicant is proposing to construct and maintain a 13-foot high gate and fence in a required front-yard, which will require a 9-foot special exception to the fence height regulations.
- Secondly, the applicant is proposing 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 requires a special exception to the fence opacity regulations.
- Lastly, the applicant is requesting a special exception to the fence standards regulations regarding prohibited material.
- The subject site along with surroundings properties to the north, south and west are all developed with single-family homes.
- Directly to east (behind the subject property) is SUP 1622, The Creeks, a gated residential community.
- As illustrated on the submitted site plan and elevations, the applicant is proposing a combination of wrought iron gate with a chopped limestone veneer wall, located on the front property line.
- Based upon staff's analysis of the surrounding properties, some properties provided a fence and gate exceeding 4-feet above grade in the required front yard and/or some provided a form of vegetation serving as a screening mechanism along Strait Ln.

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- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height and opacity will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-090 10660 Strait Ln](#)

Timeline:

- May 21, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Mustafa Swayedi, 9040 Mercer Drive, Dallas TX 75228

Against: None

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-086, on application of Mustafa Swayedi, **GRANT** the request of this applicant to construct and/or maintain a 6-foot high fence as a

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special exception to the height requirement for fences contained in the Dallas Development Code, as amended, 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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Michael Hopkoviz				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-086, on application of Mustafa Swayedi, **GRANT** the request of this applicant to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line as a special exception to the surface area openness requirement for fences 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 opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

7. 8306 Midway Road
BDA234-092(CJ)

BUILDING OFFICIAL'S REPORT Application of Matthew Hickey represented by Jennifer Hickey for (1) a special exception to the fence height regulations; and for (2) a special exception to the fence opacity regulations at 8306 Midway Rd. This property is more fully described as Block A/4971, Lot C, and is zoned R-10(A), which limits the height of a fence in the front yard to 4-feet; and requires

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a fence panel with a surface area that is less than 50 percent open not be located less than five feet from the front lot line. The applicant proposes construct and/or maintain a 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence height regulations; and the applicant proposes to construct and/or 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 (2) a special exception to the fence opacity regulations.

LOCATION: 8306 Midway Road

APPLICANT: Matthew Hickey

REPRESENTED BY: Jennifer Hickey

REQUEST:

(12)

A request for a special exception to the fence height regulations; and

(13)

A special exception to the fence standards regulations regarding opacity.

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT & OPACITY
STANDARD REGULATIONS:**

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence opacity regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this or any request for a special exception to the fence regulations 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:

BDA History:

No BDA history found at 8306 Midway Rd. in the last 5 years.

Square Footage:

- This lot contains 23,958 of square feet.
- This lot is zoned R-10 (A) which has a minimum lot size of 10,000 square feet.

Zoning:

Site: R-10 (A) (Single Family District)
North: R-10 (A) (Single Family District)
East: R-10 (A) (Single Family District)
South: R-10 (A) (Single Family District)
West: R-7.5 (A) (Single Family District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application of Matthew Hickey for property located at 8306 Midway Road focuses on 2 requests relating to the fence height and fence standards regarding opacity.
- The applicant proposes to maintain and 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- Secondly, the applicant is planning to construct and/or 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 regulations regarding opacity.
- The subject site along with properties to the north, south, east, and west are all developed with single-family homes.
- The submitted site plan and elevations show the applicant is proposing to maintain a 6-foot high fence in the required front yard along Midway Road.
- The fence is material is brick connected by metal framed wood gates at various points along the fence.
- The subject site is a mid-block lot with single street frontage along Midway Road.
- Based upon staff's analysis of the surrounding properties, there are a very few homes along Midway Road with fences and gates in the required front yard.
- Per staff's review of the subject site, it has been confirmed that the fence is existing and not proposed.
- Plans for the existing fence were approved by the Development Services (now Planning & Development Department after June 2024 department merge) permitting center on March 15, 2024 and issued under permit #2403151099.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height and opacity will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standard regulations relating to height and opacity with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-092 at 8306 Midway](#)

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Timeline:

- June 3, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A
- June 20, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the June 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 5, 2024, 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 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Matt Hickey, 8306 Midway Rd., Dallas TX 75209
Jennifer Hickey, 8306 Midway Rd., Dallas TX 75209

Against: None

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-092, on application of Matthew Hickey, **GRANT** the request of this applicant to construct and/or maintain a 6-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, 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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Andrew Finney				

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Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-092, on application of Matthew Hickey, **GRANT** the request of this applicant to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line as a special exception to the surface area openness requirement for fences 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 opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Andrew Finney, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chairman moved to adjourn the meeting at 3:27 p.m.

Maker:	Jay Narey				
Second:	Andrew Finney				
Results:	5-0 unanimously				Motion to adjourn

Mary Williams

Required Signature:
Mary Williams, Board Secretary
Planning & Development Department

08/20/2024

Date

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July 16th, 2024



Required Signature:

Bryant Thompson, Acting Board Administrator
Planning & Development Department

08. 20. 2024

Date



Required Signature:

David A. Neumann, Chairman
Board of Adjustment

8/20/24

Date