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**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
MONDAY, OCTOBER 18, 2021**

CITY SECRETARY
DALLAS, TEXAS

MEMBERS PRESENT AT BRIEFING: Robert Agnich, Acting Chair - regular member, Roger Sashington, regular member, Nick Brooks, alternate member, David Ramsour, alternate member

MEMBERS ABSENT FROM BRIEFING: Judy Pollock, regular member

MEMBERS PRESENT AT HEARING: Robert Agnich, Acting Chair - regular member, Roger Sashington, regular member, Nick Brooks, alternate member, David Ramsour, alternate member

MEMBERS ABSENT FROM HEARING: Judy Pollock, regular member

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes and Daniel Moore, Asst. City Attorneys, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, Phil Erwin, Arborist, and Andreea Udrea, Interim Assistant Director

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes and Daniel Moore, Asst. City Attorneys, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, Phil Erwin, Arborist, and Andreea Udrea, Interim Assistant Director.

11:20 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **October 18, 2021 docket.**

BOARD OF ADJUSTMENT ACTION: October 18, 2021

1:03 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, September 20, 2021 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: October 18, 2021

MOTION: Brooks

Approval of the Board of Adjustment Panel C, September 20, 2021 public hearing minutes.

SECONDED: Sashington

AYES: 4 – Brooks, Ramsour, Agnich, Sashington

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-095(PD)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for special exceptions to the fence height regulations and to the fence standards regulations, at 5915 Park Lane. This property is more fully described as Lot 5, Block H/5614, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line. The applicant proposes to construct and maintain a six-foot six-inch-high fence with fence panels that do not meet the minimum opacity requirement in a required front yard which will require a two-foot-six-inch special exception to the fence regulations and a special exception to the fence standards.

LOCATION: 5915 Park Lane

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST:

The applicant proposes a fence of six-foot-six-inches in height, constructed of stone and steel materials located along Park Lane at a length of 103 feet from the front property line. The site is currently undeveloped but is associated with the neighboring site and BDA201-096 which contains a two-story single-family dwelling unit.

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.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-1ac(A) (Single Family District)
<u>North:</u>	R-1ac(A) (Single Family District)
<u>East:</u>	R-1ac(A) (Single Family District)
<u>South:</u>	R-1ac(A) (Single Family District)
<u>West:</u>	R-1ac(A) (Single Family District)

Land Use:

The subject site is currently undeveloped. Surrounding properties to the north, east, south, and west are developed with single-family uses.

Zoning/BDA History:

There have been seven related board or zoning cases in the vicinity within the last five years.

1. **BDA201-096:** On October 18, 2021, Panel C, Board of Adjustments will hear requests for special exceptions to the fence height regulations, to the fence standards regulations, and to the visibility obstruction regulations at 5923 Park Lane. **(**related case**)**
2. **BDA201-089:** On October 20, 2021, Panel B, Board of Adjustments will hear 1) a special exception to the fence height regulations of four feet is made to construct and maintain an eight-foot-high fence; 2) a special exception is made to the fence standards regulations 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 five feet front the front lot line; and, 3) a special exception is made to visual obstruction regulations to construct and maintain portions of an eight-foot-high solid wood fence in the required 20-foot visibility triangle at the intersection of Walnut Hill Lane and Douglas Avenue at 9646 Douglas Avenue.
3. **BDA190-052:** On June 23, 2020, the Panel A, Board of Adjustments granted a special exception to the fence regulations to construct and maintain a six-foot-high fence at 5830 Falls Road.
4. **BDA189-109:** On January 21, 2020, the Panel A, Board of Adjustments granted special exceptions to the single-family regulations to maintain the original two-story home and to authorize more than one electrical utility service or electrical meter on a site with a single-family use at 5952 Joyce Way.
5. **BDA189-118:** On October 23, 2019, the Panel B, Board of Adjustments granted a special exception to the fence standards regulations to construct and maintain a five-foot-six-inch fence at 5807 Park Lane.
6. **BDA178-003:** On January 16, 2018, the Panel A, Board of Adjustments granted a special exception to the fence standards and visual obstructions regulations to construct and maintain an eight-foot-high fence at 9025 Douglas Avenue.

7. **BDA167-051:** On May 16, 2017, the Panel A, Board of Adjustments granted special exceptions to the fence standards to construct and maintain an eight-foot-two-inch-high fence and 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 five feet from the front lot line at 5814 Watson Avenue.

GENERAL FACTS/STAFF ANALYSIS:

Two requests exist for the subject site. The first request for a special exception to the fence height regulations of four feet is made to construct and maintain a six-foot six-inch-high fence which will require a two-foot six-inch special exception. The second request for a special exception is made to the fence standards regulations 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 five feet from the front lot line

The property is zoned an R-1ac(A) Single Family District with requires a minimum lot area of one acre or 43,560 square feet. The subject site is currently undeveloped and proposed to be combined with the adjacent lot containing a single-family use (BDA201-096) to the east. The applicant proposes to construct a stone wall, ten stone columns, and one steel gate with a maximum overall height of six feet six inches along the approximately 103-foot width of the site fronting along Park Lane.

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 following information is shown on the submitted site plan:

- The proposed fence with ten columns and one steel gate is located at the lot line along Park Lane and at its closest point appears to be approximately zero feet from the back of curb/pavement line.
- Along Park Lane the fence is proposed at a width of 103 feet and has a depth of 59 feet into the front yard setback which extends beyond the required 40-foot front yard setback.
- The fence is proposed to be constructed of stone and steel.

As of October 8, 2021, no letters have been submitted in opposition or in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of six-feet six-inches located on Park Lane will not adversely affect neighboring properties.

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

Timeline:

August 17, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

September 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

September 17, 2021: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Transportation Senior Engineer, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted with these requests.

BOARD OF ADJUSTMENT ACTION: October 18, 2021

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

APPEARING IN OPPOSITION: None

MOTION#1: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-095, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a six-foot six-inch 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 the submitted site plan and elevation is required.

SECONDED: Sashington

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0-

MOTION PASSED: 4-0 (unanimously)

MOTION#2: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-095, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines 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 the submitted site plan and elevation is required.

SECONDED: Ramsour

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 –

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-096(PD)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for special exceptions to the fence height regulations, to the fence standards regulations, and to the visibility obstruction regulations at 5923 Park Lane. This property is more fully described as Lot 8, Block I/5614, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet, requires a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line, and requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct a seven-foot-high fence with fence panels that do not meet the minimum opacity requirement in a required front yard, located within a required visibility obstruction triangle, which will require a three-foot special exception to the fence height regulations, and special exceptions to the fence standards, and visibility obstruction regulations.

LOCATION: 5923 Park Lane

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST: The applicant proposes a fence of seven-foot in height, constructed of stone and steel materials located along Park Lane at a length of 103 feet from the front property line. The site is currently developed with a two-story single-family dwelling unit and is associated with the neighboring site and BDA201-095 which is undeveloped.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that 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:

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations 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. However, staff does provide a technical opinion to assist in the board’s decision-making.

The Transportation Development Services Senior Engineer has no objections to the proposed requests to encroach into the required 20-foot visibility triangle at the drive approach into the property from Park Lane (**Attachment A**).

BACKGROUND INFORMATION:

Zoning:

- Site: R-1ac(A) (Single Family District)
- North: R-1ac(A) (Single Family District)
- East: Planned Development District No. 910
- South: R-1ac(A) (Single Family District)
- West: R-1ac(A) (Single Family District)

Land Use:

The subject site and surrounding properties to the north, east and south, are developed with single-family uses. The property to the west is undeveloped.

Zoning/BDA History:

There have been seven related board or zoning cases in the vicinity within the last five years.

8. **BDA201-095:** On October 18, 2021, Panel C, Board of Adjustments will hear requests for special exceptions to the fence height regulations and fence standards regulations at 5915 Park Lane. (**related case**)

9. **BDA201-089:** On October 20, 2021, Panel B, Board of Adjustments will hear 1) a special exception to the fence height regulations of four feet is made to construct and maintain an eight-foot-high fence; 2) a special exception is made to the fence standards regulations 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 five feet from the front lot line; and, 3) a special exception is made to visual obstruction regulations to construct and maintain portions of an eight-foot-high solid wood fence in the required 20-foot visibility triangle at the intersection of Walnut Hill Lane and Douglas Avenue at 9646 Douglas Avenue.
10. **BDA190-052:** On June 23, 2020, the Panel A, Board of Adjustments granted a special exception to the fence regulations to construct and maintain a six-foot-high fence at 5830 Falls Road.
11. **BDA189-109:** On January 21, 2020, the Panel A, Board of Adjustments granted special exceptions to the single-family regulations to maintain the original two-story home and to authorize more than one electrical utility service or electrical meter on a site with a single-family use at 5952 Joyce Way.
12. **BDA189-118:** On October 23, 2019, the Panel B, Board of Adjustments granted a special exception to the fence standards regulations to construct and maintain a five-foot-six-inch fence at 5807 Park Lane.
13. **BDA178-003:** On January 16, 2018, the Panel A, Board of Adjustments granted a special exception to the fence standards and visual obstructions regulations to construct and maintain an eight-foot-high fence at 9025 Douglas Avenue.
14. **BDA167-051:** On May 16, 2017, the Panel A, Board of Adjustments granted special exceptions to the fence standards to construct and maintain an eight-foot-two-inch-high fence and 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 five feet from the front lot line at 5814 Watson Avenue.

GENERAL FACTS/STAFF ANALYSIS:

Three requests exist for the subject site. The first request for a special exception to the fence height regulations of four feet is made to construct and maintain a seven-foot-high fence which will require a three-foot special exception.

The second request for a special exception is made to the fence standards regulations 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 five feet from the front lot line.

The third request for a special exception to the visual obstruction regulations is made to construct and maintain a seven-foot-high fence in a required 20-foot visibility triangle at two driveway approaches into the property at approximately one-and-a-half feet into the required drive approach from Park Lane. The property is developed with a two-story single family dwelling unit.

The property is zoned an R-1ac(A) Single Family District with requires a minimum lot area of one acre or 43,560 square feet. The subject site is currently developed with a single-family dwelling and proposed to be combined with the adjacent undeveloped lot (BDA201-095) to the west. The applicant proposes to construct an iron wall, approximately nine stone columns, and two electric steel gates for vehicular access with a maximum overall height of seven feet along the approximately 103-foot width of the site fronting along Park Lane.

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. Additionally, the Code requires the portion of a lot with a triangular area formed by connecting the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection shall be maintained.

Visibility triangles are further defined in Section 51A-4.602(d) of the Dallas Development Code which 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 street intersections and 20-foot visibility triangles at drive approaches and alleys on properties zoned single family); and
- between two-and-a-half and eight-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 submitted with the request indicates portions of the proposed fence encroach one-and-a-half feet into one required 20-foot visibility triangle, providing 18-and-a-half feet of unobstructed area for visibility at the drive approach into the site from Park Lane.

The Transportation Senior Engineer has no objections to the proposed request to encroach into the required 20-foot visibility triangle at the drive approach into the site from Park Lane (**Attachment A**).

The following information is shown on the submitted site plan:

- The proposed fence with nine columns and two steel gates is located at the lot line along Park Lane and at its closest point appear to be approximately zero feet from the back of curb/pavement line.
- Along Park Lane the fence is proposed at a width of 103 feet.
- The fence is proposed to be constructed of cast stone or cut limestone veneer and steel.

As of October 8, 2021, no letters have been submitted in opposition or in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of seven feet located on Park Lane will not adversely affect neighboring properties.

Granting the special exceptions to the fence standards related to the height and to the visual obstruction regulations would require the proposal exceeding four feet-in-height in the front yard setback within the 20-foot visibility triangles located along Park Lane to be maintained in the locations, heights and materials as shown on the site plan and elevation plan.

Timeline:

August 17, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

September 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

September 17, 2021: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Transportation Senior Engineer, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 1, 2021 The Transportation Senior Engineer submitted a review comment sheet marked no objections to the request (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 18, 2021

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

APPEARING IN OPPOSITION: None.

MOTION#1: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-096, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a seven-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 the submitted site plan and elevation is required.

SECONDED: Agnich

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

MOTION#2: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-096, on application of Rob Baldwin of Baldwin Associate, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines 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 the submitted site plan and elevation is required.

SECONDED: Agnich

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 –

MOTION PASSED: 4 – 0 (unanimously)

MOTION#3: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-096, on application of Rob Baldwin of Baldwin Associates, **grant** the request to maintain items in the visibility triangle at the drive approach 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 submitted site plan and elevation is required.

SECONDED: Agnich

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 –

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-088(JM)

BUILDING OFFICIAL’S REPORT: Application of Melissa Kingston to enlarge a nonconforming use at 1013 S. Glasgow Drive. This property is more fully described as Lot 25, Block 7/1614, and is zoned Subarea A within Planned Development District No. 134, which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming multifamily use with three units, to four units, which will require a special exception to the nonconforming use regulations.

LOCATION: 1013 S. Glasgow Drive

APPLICANT: Melissa Kingston

REQUEST:

The site contains a nonconforming triplex use. The applicant requests to expand the nonconforming use to allow an additional dwelling unit, making the structure a fourplex.

STANDARD FOR ENLARGING A NONCONFORMING USE:

Section 51A-4.704(b) (5) (B) of the Dallas Development Code states the board may allow the enlargement of a nonconforming use when, *in the opinion of the board*, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

STAFF RECOMMENDATION:

No staff recommendation is made on a request to enlarge a nonconforming use since the basis for this type of appeal is based on *the opinion of the board*.

BACKGROUND INFORMATION:

Zoning:

Site: Subarea A, PD No. 134

North: Subarea A, PD No. 134

East: Subarea A, PD No. 134

South: Subarea A, PD No. 134

West: Subarea A, PD No. 134

Land Use:

The subject site is developed with a multifamily structure. The areas to the north, south, east, and west are developed with single-family uses. One duplex use is found across Glasgow Drive to the east.

Zoning/BDA History:

1. **BDA201-035:** On Monday, April 19, 2021, Panel C upheld an administrative official's decision regarding the number of dwelling units at the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The request site is zoned Subarea A within Planned Development District No. 134. Specifically, the PD was established in 1982 and limits land uses according to Exhibit 134A where the subject property is identified as a single-family use. However, according to DCAD records, the subject site was developed with a structure erected in 1947, containing 2,102 square feet of floor area, and three dwelling units. Historical zoning maps for the subject zoning grid of I-9 identify the site as being zoned an 2F-2 Second Manufacturing/Commercial District in 1929 through to 1970. This zoning district was the least restrictive, allowing the most land uses and densest development. Due to cumulative zoning, this zoning category allowed all less restrictive zoning district land uses including multifamily apartments and triplex.

Section 51A-2.102(89) of the Dallas Development Code defines a nonconforming use as a use that does not conform to the use regulations of this chapter but was lawfully established under regulations in force at the beginning of operation and has been in regular use since that time.

Section 51A-4.704(b)(5)(A) of the Dallas Development Code states that enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

The applicant applied for a building permit and Certificate of Occupancy on December 31, 2020 to renovate a fourplex structure. The administrative official denied the permits asserting that city records can only confirm the existence of a triplex structure. The applicant applied for an appeal to the administrative official's decision in accordance with the code. The appeal was denied by Panel C on April 19, 2021, upholding the decision of the administrative official and confirming the nonconforming use as a triplex.

Three units are deemed legal, nonconforming. The applicant is now seeking a special exception to allow the enlargement of the nonconforming multifamily use to allow one more dwelling unit, as identified on the submitted floor plans.

The applicant has the burden of proof to establish that the enlargement of the non-conforming use:

1. does not prolong the life of the nonconforming use;

2. would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
3. will not have an adverse effect on the surrounding area.

On October 8, 2021, the applicant submitted additional evidence for the board's consideration (**Attachment A**).

If the board were to grant this request with a condition imposed that the applicant may obtain a CO for a total of four dwelling units, the enlargement of the nonconforming use would be limited to exactly that, with no limitations on the structure other than the existing development code requirements. Granting this request will not provide relief from any other requirements of the code.

Timeline:

- July 26, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- September 16, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C due to case history.
- September 17, 2021: The Board of Adjustment Chief Planner/Board Administrator emailed the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:
- a copy of the application materials including the Building Official's report on the application;
 - 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."
- September 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Board of Adjustment Senior Planner, the Transportation Senior Engineer, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.
- October 8, 2021: The applicant submitted additional evidence (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 18, 2021

APPEARING IN FAVOR: Philip Kingston 5901 Palo Pinto Ave. Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 201-088, on application of Melissa Kingston, **grant** the request of this applicant to increase the number of units from three to four units because our evaluation of the property and the testimony shows that enlarging the nonconforming use (1) will not prolong the life of the nonconforming use; (2) would have been permitted under the zoning regulations that existed with the nonconforming use was originally established by right; and (3) will not have an adverse effect on the surrounding area.

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

Compliance with **submitted site plan** and **floor plan** is required.

SECONDED: Pollock

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 4 – 0

FILE NUMBER: BDA201-092(PD)

BUILDING OFFICIAL'S REPORT: Application of Danielle Mathews of Masterplan Texas for a special exception to the fence height regulations at 10645 Lennox Lane. This property is more fully described as Lot 2, Block C/5534, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct and maintain a nine-foot-high fence in a required front yard, which will require a five-foot special exception to the fence regulations.

LOCATION: 10645 Lennox Lane

APPLICANT: Danielle Mathews of Masterplan Texas

REQUEST:

The request for a special exception to the fence standards regulations relating to height of five feet is made to construct and maintain a nine-foot-high fence. The property is currently undeveloped, fenced, and moderately wooded.

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.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (Single Family District)
North: R-1ac (Single Family District)
East: R-1ac (Single Family District)
South: R-1ac (Single Family District)
West: R-1ac (Single Family District)

Land Use:

The subject site is currently undeveloped and moderately wooded. Surrounding properties to the north, east, south, and west are developed with single-family uses.

Zoning/BDA History: There have been nine related board cases in the vicinity within the last five years.

1. **BDA167-047:** On April 17, 2017, the Panel C, Board of Adjustments granted a special exception to the fence height regulations at 10545 Lennox Lane.
2. **BDA167-140:** On December 11, 2017, the Panel C, Board of Adjustments granted a special exception to the fence standards at 10564 Lennox Lane.
3. **BDA178-038:** On May 21, 2018, the Panel C, Board of Adjustments granted a special exception to the fence height regulations at 10515 Lennox Lane.
4. **BDA178-111:** On October 18, 2018, the Panel B, Board of Adjustments granted a special exception to the fence height regulations at 10650 Strait Lane.
5. **BDA178-127:** On November 14, 2018, the Panel B, Board of Adjustments granted a special exception to the fence height regulations at 10747 Lennox Lane.
6. **BDA189-099:** On October 21, 2019, the Panel C, Board of Adjustments granted a special exception to the fence height regulations at 4554 Harrys Lane.
7. **BDA189-141:** On December 16, 2019, the Panel C, Board of Adjustments

- granted a special exception to the fence height regulations at 4610 Catina Lane.
8. **BDA190-079:** On October 19, 2020, the Panel C, Board of Adjustments granted a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations at 4651 Cantina Lane.
9. **BDA190-050:** On June 22, 2021, the Panel C, Board of Adjustments granted a special exception to the fence height regulations at 4610 Cantina Lane.

GENERAL FACTS/STAFF ANALYSIS:

The applicant requests a special exception to the fence height standards of five feet to construct and maintain a nine-foot tall stone veneer wall, an eight-foot tall screening wall that while it encroaches into the setback is set back five feet from the front property lot line, a five-foot tall blackened finish steel picket fence, an eight-foot tall limestone veneer wall with an integrated eight-foot-tall, twenty-two-foot long solid steel plate vehicular gate with an approximate length of 294 feet along Lennox Lane and along Catina Lane, an eight-foot-tall security fence with landscape, an eight-foot-tall, two-foot wide stone veneer column with an eight-foot-tall, six-foot-wide pedestrian gate, and a five-foot-tall, blackened finish steel picket fence with an approximate length of 330 feet.

Currently, the property is undeveloped, however, internal records reflect a building permit issued in 2018 for a single-family dwelling unit with approximately 9,379 square feet of floor area.

Section 51A-4.602(A)(2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-1ac Single Family District and requires a minimum front yard setback of 40 feet. However, the property is situated along the northwest line of Catina Lane and Lennox Lane and thereby must maintain the 40-foot front yard setback in compliance with the front yard provisions for residential districts.

Staff conducted a site visit of the subject site and surround area and noted several other fences along Catina Lane, and Lennox Lane located in the front yard setbacks which appeared to be above four feet-in-height and located in the front yard setback, many of which have recorded BDA history (see the Zoning/BDA History section of this case report for details).

Additionally, the representative provided evidence (**Attachment A**) to staff which contains eight board cases related to height within the vicinity of the subject property that have been granted special exceptions to the fence height regulations and fence standard regulations.

As of October 8, 2021, two emails have been submitted in opposition of the request and no letters in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of nine feet located on Lennox Lane will not adversely affect neighboring properties.

Granting the special exception to the fence height regulations would require the proposal exceeding four feet-in-height in the front yard setback located along Catina Lane and Lennox Lane to be maintained in the locations, heights and materials as shown on the site plan and elevation plan.

Timeline:

- August 9, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.
- Sept. 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- Sept. 17, 2021: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- Sept. 24, 2021: The representative submitted evidence to staff (**Attachment A**).
- Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- No staff review comment sheets were submitted with this request.
- October 8, 2021: The applicant provided duplicate evidence as was provided on September 24th (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 18, 2021

APPEARING IN FAVOR: Danielle Mathews 2201 Main St, #1280 Dallas, TX
Dallas Cothrum 2201 Main St. #1280 Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Agnich

I move that the Board of Adjustment in Appeal No. BDA 201-092 **hold** this matter under advisement until **November 15, 2021**.

SECONDED: Ramsour

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 4 – 0

FILE NUMBER: BDA201-065(PD)

BUILDING OFFICIAL'S REPORT: Application of Wissam Shazem of 2020 Real Estate LLC represented by Elias Rodriguez for a special exception to the landscaping regulations at 4137 Independence Drive. This property is more fully described as Lot 10A, in City Block 4/6932, and is zoned an MU-2 Mixed Use District, which requires mandatory landscaping. The applicant proposes to construct a retail structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4137 Independence Drive

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

REQUEST:

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

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

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

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property.
- (2) the special exception will not adversely affect neighboring property; and

- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

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

STAFF RECOMMENDATION:

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

Rationale:

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

BACKGROUND INFORMATION:

Zoning

Site: MU-2 (Mixed Use District 2)
North: MU-2 (Mixed Use District 2)
East: MU-2 (Mixed Use District 2)
South: MU-2 (Mixed Use District 2)
West: MU-2 (Mixed Use District 2)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Update:

The chief arborist's revised memo to the revised landscape plan submitted on August 30th outlines the following with regard to the "recommendation":

- The placement of live oaks, or any tree, will not be accepted in the parkway (space between street curb and sidewalk) for the reasons stated to the Board. An underground 12" water line runs through that space.
- The landscaping on the west end of the site is acceptable.
- The shrub row along the sidewalk to the south only if there is a planting width of 3' or greater. The shrubs cannot grow to cover the sidewalk.
- The tree island at the southwest corner of the building is what I was looking for in this situation. If you could add another tree location along that south facing parking row, it would be suggested for my approval. I recommend red oak if feasible.
- Remove the 'notes' box that the site will comply with city landscape requirements. Maintain the 'general landscape notes'

Additionally, comments from the Development Services and The Transportation Development Services Divisions have found substandard conditions as it relates to the minimum driveway widths for two-way access, structure encroachment over the property line, and parking concerns, the Chief Arborists further suggests that the site plan be amended to ensure that the proposed landscape plan provided to the Board is consistent with site plans that may be submitted for permit approval.

Timeline:

- May 12, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- July 8, 2021: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 2021 deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- July 30, 2021: The Sustainable Development and Construction Chief Arborist submitted a report detailing the recommendation (**Attachment A**).
- August 16, 2021: Panel C held this case under advisement to October 18, 2021. On August 30th, a revised landscape plan was submitted. However, staff comments provided on September 20th requesting further revisions have not been provided prior to submittal of this report for the docket

BOARD OF ADJUSTMENT ACTION: October 18, 2021

APPEARING IN FAVOR: Elias Rodriguez 317 E. Jefferson Ave. Dallas, TX
Aaron Coggins 317 E. Jefferson Ave. Dallas, TX
Sam Khazem 317 E. Jefferson Ave. Dallas, TX

APPEARING IN OPPOSITION: None
MOTION#1: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-065, on application of Wissam Shazem of 2020 Real Estate LLC, represented by Elias Rodriguez, **GRANT** the request of this applicant for a special exception to the landscape requirements contained in Article X of the

Dallas Development Code, as amended, because our evaluation of the property, the testimony presented to us, and the facts that we have determined show that (1) strict compliance with the requirements of this article will unreasonably burden the use of the property; (2) the special exception will not adversely affect neighboring property, and (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

Compliance with the submitted alternate landscape plan is required.

SECONDED: Ramsour

AYES: 1 - Ramsour

NAYS: 3 – Brooks, Agnich, Sashington

MOTION PASSED: 3 – 1

MOTION#2: Brooks

I move that the Board of Adjustment in Appeal No. BDA 201-065, hold this matter under advisement until November 15, 2021.

SECONDED: Ramsour

AYES: 2 - Ramsour, Brooks

NAYS: 2 –Agnich, Sashington

MOTION FAILED: 2 – 2

MOTION#3: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 201-065, on application of Wissam Shazem of 2020 Real Estate LLC, represented by Elias Rodriguez, **deny** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that strict compliance with the requirements of Article X will not unreasonably burden the use of the property **and** the special exception will adversely affect neighboring property.

SECONDED: Sashington

AYES: 3 - Ramsour, Agnich, Sashington

NAYS: 1 - Brooks

MOTION PASSED: 3 – 1

FILE NUMBER: BDA201-078(JM)

BUILDING OFFICIAL’S REPORT: Application of Baldwin Associates for a variance to the front yard setback regulations at 4000 Stonebridge Drive. This property is more fully described as Lot 6, Block 5/2023, and is zoned an R-7.5 Single Family Subdistrict within Planned Development District No. 193, which requires a front yard setback of 25 feet, and limits the height of a fence in the front yard to four feet. The applicant proposes to construct a single family residential

accessory structure (swimming pool) and provide a 16-foot front yard setback, which will require a nine-foot variance to the front yard setback regulations. Additionally, a retaining wall up to nine-feet six-inches-in-height is proposed in the front yard, requiring a five-foot six-inch special exception to the fence height regulations.

LOCATION: 4000 Stonebridge Drive

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST:

The applicant proposes to construct and maintain a swimming pool, spa structure, and retaining wall located as close as 16 feet from the front property line. The site is currently undeveloped.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots zoned and R-7.5 Single Family District within PD No. 193 in that it is somewhat sloped (elevation ranging from 484 feet on the west to 493 feet on the east) and irregular in shape (ranging from about 43 to 103 feet-in-width).

- Staff concluded that the applicant has shown by submitting a document (**Attachment A**) indicating among other things that the size of the proposed pool on the subject site with approximately 475 square feet of floor area is commensurate with 30 properties in the same zoning district which have an average lot area of 19,217 square feet.

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.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (R-7.5) (Single family subdistrict)
North: PD 193 (R-7.5) (Single family subdistrict)
South: PD 193 (R-7.5) (Single family subdistrict)
East: PD 193 (MF-2) (Multifamily subdistrict)
West: PD 193 (R-7.5) (Single family subdistrict)

Land Use:

The subject site is undeveloped. The areas to the north, south, and west are developed with single family uses, and the area to the east is the Katy Trail.

Zoning/BDA History:

1. **BDA201-031** Property at 4000 Stonebridge Drive (the subject site): On April 19, 2021, the Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations of 12 feet without prejudice. The case report stated the request was made to construct and maintain an accessory pool structure, part of which is to be located as close as 13 feet from the front property line or as much as 12 feet into the 25-foot front yard setback on a site that is undeveloped.

2. **BDA189-082** Property at 4000 Stonebridge Drive (the subject site): On August 19, 2019, the Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations of ten feet without prejudice. The case report stated the request was made to construct and maintain a two-story single-family structure with a 2,600 square foot building footprint (and with approximately 4,500 square feet of “conditioned” space), part of which is to be located as close as 15 feet from the front property line or as much as 10 feet into the 25-foot front yard setback on a site that is undeveloped.

GENERAL FACTS /STAFF ANALYSIS:

This request for a variance to the front yard setback regulations of up to nine feet is made to construct and maintain a residential accessory structure, a swimming pool and a spa structure, with approximately 475 square feet of floor area. The site is undeveloped and located in an R-7.5 Single Family District within PD No. 193 which requires a minimum front yard setback of 25 feet.

The submitted site plan indicates that the proposed structure is located as close as 16 feet from the front property line or as much as nine feet into the 25-foot front yard setback.

Lots in this district are typically 7,500 square feet in area. The subject site is somewhat sloped, irregular in shape, and, according to the application, is 0.26 acres (or approximately 11,300 square feet) in area.

According to DCAD records, there are no improvements listed for the property addressed at 4000 Stonebridge Drive.

The applicant has submitted a document that represents that the lots average square footage of 30 other properties with a pool in the PD 193 (R-7.5) zoning district is about 19,212 square feet.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (R-7.5) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 193 (R-7.5) zoning classification.

Additionally, the applicant is now requesting a special exception to the fence height regulations for a retaining wall proposed in the front yard. This retaining wall was included on the last requests for this case, but not as a special exception. The applicant was advised that due to the measurement of the fence being taken from the interior of the property, that despite the retaining wall not being visible from the street, the retaining wall is considered a fence structure above four feet-in-height in a front yard setback.

According to the site plan and elevation submitted, the portion of the one-foot wide, solid concrete retaining wall fence structure is located on the southern portion of the site, around the driveway and garage area, and is up to nine-feet six-inches-in-height and 26 feet-in-length along the Stonebridge frontage, about 15 feet from the property line.

As of September 14, 2021, letters and petitions of support had been received regarding the requests.

If the board were to grant the variance request and impose the submitted site plan as a condition, the accessory structure, a swimming pool and a spa structure with approximately 475 square feet of floor area located partially in the front yard setback, would be limited to what is shown on this document. If the board were to grant the special exception to the fence height standards and impose the submitted site plan and elevation, the fence located in the front yard along the Stonebridge Drive frontage would be limited to the location and height, as depicted.

Timeline:

- June 30, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 5, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C, due to case history.
- August 23, 2021: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application:
 - an attachment that provided the public hearing date and panel that will consider the application; the August 31st deadline to submit additional evidence for staff to factor into their analysis; and the September 10th 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 30, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

September 3, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board. No review comment sheets were submitted in conjunction with this application.

September 20, 2021: Panel C held this case under advisement to October 18, 2021. No additional evidence or updates were provided at the time of this report.

BOARD OF ADJUSTMENT ACTION: October 18, 2021

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
 Mark Roberts 12377 Merit Dr. #700 Dallas, TX
 Logan Waller 5115 McKinney Ave. Ste. F Dallas, TX
 Sam Allgood 1419 Dragon St. Dallas, TX

APPEARING IN OPPOSITION: Randy Kender 4116 Stonebridge Dallas, TX
 William James 4103 Rock Creek Dr Dallas, TX
 John Doubleday 4018 Stonebridge Dallas, TX
 Helen Crichton 4007 Stonebridge Dr. Dallas, TX

MOTION#1: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 201-078, on application of Rob Baldwin of Baldwin Associates, **deny** the variance to the front yard setback regulations 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.

SECONDED: Brooks

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 4 – 0

MOTION#2: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 201-078, on application of Rob Baldwin of Baldwin Associates **grant** the request of this applicant to construct and maintain a ten-foot high fence as a special exception to the height requirements 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 the submitted site plan and elevation is required.

SECONDED: Ramsour

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 4 - 0

MOTION: Agnich

I move to adjourn the Panel C hearing.

SECONDED: Brooks

AYES: 4 - Brooks, Ramsour, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 4 - 0

Recess: 1:58 p.m.

Resume: 2:03 p.m.

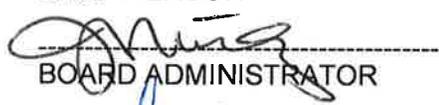
Recess: 3:12 p.m.

Resume: 3:18 p.m.

The meeting was adjourned at 4:31 P.M. on October 18, 2021



CHAIRPERSON



BOARD ADMINISTRATOR



BOARD SECRETARY

Note: For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.