



BOARD OF ADJUSTMENT

Panel A Minutes

January 17, 2023

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room

24826688570@dallascityhall.web

ex.com

David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Kathleen F. Davis	
Rachel Hayden	
Lawrence Halcomb	
Jay Narey	

ABSENT: [0]

Chair Neumann called the briefing to order at **11:00 A.M.** with a quorum of the Board of Adjustment present.

Chair Neumann called the hearing to order at **1:45 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.

BOARD OF ADJUSTMENT

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MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A November 15, 2022 public hearing minutes.

Motion was made to approve Panel A November 15, 2022 public hearing minutes.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	0	

Approval of the Board of Adjustment Special Called Meeting Minutes- November 1, 2022.

Motion was made to approve November 1, 2022 Special Called Meeting Minutes.

Maker:	Jay Narey				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	0	

Approval of the Board of Adjustment 2021-2022 Annual Report

Motion was made to approve 2021-2022 BOA Annual Report.

Maker:	Lawrence Halcomb				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	0	

CONSENT ITEMS

1. 5203 Mercedes Ave
BDA223-008(OA)

BUILDING OFFICIAL'S REPORT: Application of John Johnson for a variance to the off-street parking regulations at 5203 Mercedes Avenue. This property is more fully described as Lot 16, Block 18/2929, and is zoned Conservation District No. 9, which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 8 feet, which will require a variance of 12 feet to the off-street parking regulations.

LOCATION: 5203 Mercedes Avenue

APPLICANT: John Johnson

REQUEST:

A request for a variance to the off-street parking regulations of 12' is made in conjunction with replacing an existing garage with an approximately 360 square foot accessory structure (garage) whereby two parking spaces would be enclosed in this structure and located 8' from the Homer Street right-of-way line or 12' into the required 20' distance from this right-of-way on a site developed with a single family home.

STANDARD FOR A VARIANCE:

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

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

(B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement. compliance would result in the unreasonable encroachment on an adjacent property or easement; or the municipality considers the structure to be a nonconforming structure.

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 in CD No.9 The M Streets Conservation District considering its restrictive lot area of 7,284 square feet in area when CD No. 9 requires a 7,500 square feet lot area and the site is irregular in shape so that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same CD No.9 The M Streets Conservation District zoning classification. Furthermore, staff concluded that granting this variance does not appear to be contrary to public interest in that the Transportation Development Services Senior Engineer has no objections to the request.

Zoning:

Site: CD No. 9, The M Streets Conservation District
North: CD No. 9, The M Streets Conservation District
East: CD No. 9, The M Streets Conservation District
South: CD No. 9, The M Streets Conservation District
West: CD No. 9, The M Streets Conservation District

Land Use:

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

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

This request for a variance to the off-street parking regulations focuses on replacing an existing garage with an approximately 360 square foot accessory structure (garage) whereby two parking spaces would be enclosed in this structure and located 8' from the Homer Street right-of-way line or 12' into the required 20' distance from this right-of-way on a site developed with a single family home.

Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or are entered directly from a street or alley.

The submitted site plan denotes the location of two parking spaces in the proposed approximately 360 square foot structure (garage) located 8' from the street's right-of-way (Homer Street) line or 12' into the 20' setback line that an enclosed parking space must be from this right-of-way line.

DCAD records indicate the following improvements for the property located at 5203 Mercedes Avenue: "main improvement: a structure with 1,918 square feet of living area built-in 1938", and "additional improvements; a detached garage".

The subject site is flat, and irregular in shape, according to the submitted application, the lot is 7,284 square feet in lot area. The site is CD-9 where lots are typically 7,500 square feet in area.

The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed car garage on the subject site differs from other parcels of land by being of such restrictive area and shape.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "has no objections" (**Attachment B**).

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

- That granting the variances to the off-street parking regulations and side yard setback will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD No.9 The M Streets Conservation District zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD No.9 The M Streets Conservation District zoning classification.

If the board were to grant the variance request, staff recommends imposing the following conditions:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.

(These conditions are suggested to be imposed to assure that the variance will not be contrary to public interest).

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Timeline:

- November 1, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 14, 2022: The Sustainable Development and Construction 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 December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, 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.
- December 23, 2022: The applicant provided additional evidence (**Attachment A**).
- December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.
- December 27, 2022: The Transportation Development Services Senior Engineer submitted a comment sheet (**Attachment B**). The Transportation Development Services Senior Engineer reviewed the request and has no objections.

Speakers:

For: John Johnson 1602 N. Yale Dr. Garland, TX
Susan English 5203 Mercedes Ave. Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment **grant** the following application 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 223-008—Application of John Johnson for a variance to the off-street parking regulations in the Dallas Development Code, as amended, is subject to the following conditions:

Compliance with the submitted site plan is required; and

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An automatic garage door must be installed and maintained in working order at all times.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	0	

INDIVIDUAL ITEMS

1. 7120 Cortland Ave.
BDA223-001(OA)

BUILDING OFFICIAL'S REPORT: Application of Juan Villanueva, represented by Ricardo Villanueva, for a special exception to the fence standards regulations and a special exception to the visual obstruction regulations at 7120 Cortland Avenue. This property is more fully described as Block 10/2356, Lot 25 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires 20-foot visibility triangles at driveways. The applicant proposes to construct and/or maintain an 6 foot 6 inch high fence in a required front yard, which will require a 2 foot 6 inch special exception to the fence standards regulations, and to locate and maintain items in 20' visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 7120 Cortland Avenue

APPLICANT: Juan Villanueva
Represented by Ricardo Villanueva

REQUESTS:

The following requests have been made on a property developed with a single family home:

1. A special exception to the fence regulations is made to construct and maintain a 6' 6" high iron fence with a 6' 6" high iron gate in the required front yard; and
2. Special expcetions to the visual obstruction regulations are made to located and maintain a portions of a 6' 6" high iron fence with a 6' 6" iron gate in the two 20' visibility triangles at the driveway into to the site from Cortland Avenue.

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 the neighboring property.

STAFF RECOMMENDATION (fence standards regulations):

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 (visual obstruction regulations):

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 item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the requests and has no objections.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

The following requests have been made on a property developed with a single-family home:

1. A special exception to the fence regulations is made to construct and maintain a 6' 6" high iron fence with a 6' 6" iron gate in the required front yard; and
2. Special exceptions to the visual obstruction regulations are made to located and maintain a portions of a 6' 6" high iron fence with a 6' 6" iron gate in the two 20' visibility triangles at the driveway into to the site from Cortland Avenue.

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 R-7.5(A) Single Family District which requires a twenty-five' front yard setback.

The submitted site plan shows the following information:

- The proposed fence is located at the lot line along Cortland Avenue or between six feet from the pavement line.
- The length of the proposed fence in the front yard along Cortland Avenue 50' and 25'

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perpendicular to the street on the north and south sides.

Staff conducted a field visit of the site and surrounding area, approximately four hundred feet around the subject site, and noticed several other fences that are above four feet in height and located in a front yard setback.

As of January 6, 2023, no letters have been submitted in support of or in opposition to this request.

With regard to the request for a special exception to the fence standards regulations, the applicant has the burden of proof in establishing that the special exception to the fence height regulations will not adversely affect neighboring property.

Additionally, Section 51A-4.602(d) of the Dallas Development Code states the following: 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).

As further noted on the site plan, the proposed fence would obstruct:

- Portions of the 6' 6" fence and iron gate are proposed to be located within the two 20' visibility triangles at the driveway approach into the site from Cortland Avenue.

The Transportation Development Services Senior Engineer has no objections to the request for the obstructions to visibility triangle encroachment (**Attachment A**).

With regard to the requests for special exceptions to the visual obstruction regulations, the applicant has the burden of proof to establish how granting these requests to maintain the fence and gates in the two 20-foot visibility triangles on either side of the driveway does not constitute a traffic hazard.

Granting these requests for special exceptions to the fence standards and visual obstruction regulations with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the fence and gate over 4' in height in the front yard setback, and items in the two 20' visibility triangles at driveway into the site from Cortland Avenue to what is shown on these documents.

Timeline:

October 20, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.

December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

December 14, 2022: The Sustainable Development and Construction 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 December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, 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.

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 27, 2022: The Transportation Development Services Senior Engineer submitted a comment sheet (**Attachment A**). The Transportation Development Services Senior Engineer reviewed the requests and has no objection.

Speakers:

For: Ricardo Villanueva 2111 Pond View Ct. Grand Prairie, TX
Juan Villanueva 7120 Cortland Ave. Dallas, TX

Against: Janie Gonzalez 7124 Cortland Ave. Dallas, TX

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 223-001, on application of Juan J. Villanueva represented by Ricardo Villanueva, **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 revised 01-17-23 site plan and submitted elevation is required.

Maker:	Lawrence Halcomb				
Second:	Jay Narey				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 223-001, on application of Juan J. Villanueva represented by Ricardo Villanueva, **grant** the request to maintain items in the 20-foot visibility triangle at the drive approach on Cortland Avenue as a special exception to the visual obstruction regulations 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

BOARD OF ADJUSTMENT

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Dallas Development Code, as amended:

Compliance with the revised 01-17-23 site plan and submitted elevation is required.

Maker:	Lawrence Halcomb				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

2. 1011 Nomas St.
BDA223-002(OA)

BUILDING OFFICIAL’S REPORT: Application of Brent Jackson, represented by Aimee Furness, for a variance to the front yard setback regulations at 1011 Nomas Street. This property is more fully described as Block A/7104, Lot 18, and is zoned R-5(A), which requires a front yard setback of 20 feet. The applicant proposes to construct and/or maintain a structure and provide an 11-foot and 9-inch front yard setback, which will require an 8-foot 3-inch variance to the front yard setback regulations.

LOCATION: 1011 Nomas Street

APPLICANT: Brent Jackson
Represented by Aimee Furness

REQUEST:

A request for a variance to the front yard setback regulations of 8’-3” is made to maintain an approximately 1,600 one-story single-family structure located 11’-9” in the front property line, or 8’-3” into the required 20’ front yard setback.

STANDARD FOR A VARIANCE:

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

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

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State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (d) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (e) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (f) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirements.
 - (g) compliance would result in the unreasonable encroachment on an adjacent property or easement; or the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION (Front Yard Variance):

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 in an R-5(A) Single Family District considering its restrictive lot area of 5,070 square feet in area due to the right of way dedication on Nomas Street, so it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) Single Family District zoning classification. In addition, staff supports this request because the applicant submitted a document (**Attachment A**) indicating that the proposed structure on the site is commensurate to eleven other lots located in the same zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district)
North: R-5(A) (Single family district)
South: R-5(A) (Single family district)
East: R-5(A) (Single family district)
West: R-5(A) (Single family district)

Land Use:

The subject site is developed with a single-family home. The areas to the north, east, and west are developed with single-family uses or undeveloped/vacant lots, and the area to the south is developed with a school/institutional use.

Zoning/BDA History:

There has not been one related board or zoning case near the subject site within the last five years.

1. **BDA223-003:** On January 17, 2023, the Board of Adjustment Panel A will hear a request for a variance to the front and side yard setback regulations, made to construct a single-family structure located 14' 4" from the Nomas Street front property line, or 5' 8" into this required 20-foot front yard setback and located 0' from the westside (Winnetka Avenue) property line or as much as 5' into the required 5-foot side yard setback at 1021 Nomas Street. (**related case**).

GENERAL FACTS /STAFF ANALYSIS:

The request for a variance to the front yard setback regulations focuses on maintaining an approximately 1,600 square foot one-story single-family structure located 11' 9" from the front property line, or 8' 3" into this required 20' front yard setback.

The site is zoned an R-5(A) Single Family District, which requires a 20' front yard setback.

The submitted site plan indicates the proposed 1,570 one-story single-family structure is located 11' 9" from the front property line or 8' 9" into this required 20' front yard setback.

The subject site is flat, rectangular in shape, and according to the application, it is 5670 square feet 5,070 square feet in area after the front right-of-way dedication. In an R-5(A) District, the minimum lot size is 5,000 square feet. The applicant submitted evidence (Attachments A) which identified 11 lots within an R-5(A) single-family zoning district with an average of 7,000 square feet of lot area. The evidence also showed the average house size is 1,152 square feet. Therefore, the proposed development is commensurate to the proposed 1,570 square feet structure.

According to DCAD records, there are no improvements listed for the property addressed at 1011 Nomas Street.

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

- That granting the variances to the front and side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-5(A) zoning classification.
- The variances would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-5(A) zoning classification.

If the board were to grant the variances requested and impose the submitted site plan as a condition, the single-family structure in the front yard setback would be limited to what is shown on this document.

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Timeline:

- October 21, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 14, 2022: The Sustainable Development and Construction 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 December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, 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.
- December 22, 2022: The applicant provided additional evidence (**Attachment A**).
- December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers:	For:	Sam Mallick 2323 Victory #700 Dallas, TX Aimee Furness 2323 Victory #700 Dallas, TX
	Against:	No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-002, on application of Brent Jackson represented by Aimee Furness, **grant** the eight-foot three-inch variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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Maker:	Lawrence Halcomb				
Second:	Rachel Hayden				
Results:	4-1				
		Ayes:	-	4	David A. Neumann, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	1	Kathleen Davis

3. 1021 Nomas St.
BDA223-003(OA)

BUILDING OFFICIAL’S REPORT: Application of Brent Jackson represented by Aimee Furness for variances to the front and side yard setback regulations at 1021 Nomas Street. This property is more fully described as Block A/7104 Lot 20 and is zoned R-5(A), which requires a 20-foot front yard setback and a 5-foot side yard setback. The applicant proposes to construct and/or maintain a structure and provide a 14 foot 4 inch front yard setback, which will require a 5 foot 8 inch variance to the front yard setback regulations, and provide a 0 foot side yard setback, which will require a 5 foot variance to the side yard setback regulations.

LOCATION: 1021 Nomas Street

APPLICANT: Brent Jackson
Represented by Aimee Furness

REQUESTS:

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

1. a request for a variance to the front yard setback regulations of 5’ 8” is made to maintain an approximate 1,000 square foot one-story single-family structure located 14’ 4” from the Nomas Street front property line, or 5’ 8” into this required 20-foot front yard setback.
2. a variance to the side yard setback regulations of 5’ is made to maintain an approximately 1,000 square foot one-story single-family structure located 0’ from the west side property line or as much as 5’ into the required 5’ side yard setback.

STANDARD FOR A VARIANCE Front and Side Yard Setback Regulations:

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:

- (D) 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.
- (E) 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

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- (F) 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.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (h) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (i) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (j) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (k) compliance would result in the unreasonable encroachment on an adjacent property or easement; or the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION (front and side yard variances):

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 in an R-5(A) Single Family District considering its restrictive lot area of 5,070 square feet in area due to the right of way dedication on Nomas Street, so it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) Single Family District zoning classification. In addition, staff supports these requests because the applicant submitted a document (**Attachment A**) indicating that the proposed structure on the site is commensurate to eleven other lots located in the same zoning district.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-5(A) (Single family district)
<u>North:</u>	R-5(A) (Single family district)
<u>South:</u>	R-5(A) (Single family district)
<u>East:</u>	R-5(A) (Single family district)
<u>West:</u>	R-5(A) (Single family district)

Land Use:

The subject site is developed with a single-family home. The areas to the north, east, and west are developed with single-family uses or undeveloped/vacant lots, and the area to the south is developed with a school/institutional use.

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Zoning/BDA History:

There has not been one related board or zoning case near the subject site within the last five years.

2. **BDA223-002:** On January 17, 2023, the Board of Adjustment Panel A will hear a request for a variance to the front and side yard setback regulations, made to construct a single-family structure located 11' 9" in the front property line, or 8' 3" into this required 20-foot front yard setback at 1011 Nomias Street. (**related case**).

GENERAL FACTS /STAFF ANALYSIS:

The requests for variances to the front and side yard setback requirements focus on maintaining maintain an approximate one-story single-family structure located 14' 4" from Nomias Street front property line, or 5' 8" into this required 20-foot front yard setback and located 0' from the West side (Winnetka Avenue) property line or as much as 5' into the required 5' side yard setback.

The site is zoned an R-5(A) Single Family District, which requires a 20' front yard and a 5' side yard setback.

The submitted site plan indicates the proposed 1,004 one-story single-family structure is located 14' 4" from Nomias Street front property line, or 5' 8" into this required 20-foot front yard setback and located 0' from the westside (Winnetka Avenue) property line or as much as 5' into the required 5-foot side yard setback.

The subject site is flat, rectangular in shape, and according to the application, it is 5670 square feet and 4,675 square feet in area after the front and side right-of-way dedication. In an R-5(A) District, the minimum lot size is 5,000 square feet. The applicant submitted evidence (Attachments A) which identified 11 lots within an R-5(A) single-family zoning district with an average of 7,000 square feet of lot area. The evidence also showed the average house size is about 1,152 square feet. The proposed development is for a commensurate 1,004 square feet structure.

According to DCAD records, there are no improvements listed for the property addressed at 5005 Denton Drive.

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

- That granting the variances to the front and side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-5(A) zoning classification.
- The variances would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-5(A) zoning classification.

If the board were to grant the variances requested and impose the submitted site plan as a condition, the single-family structure in the front and side yard setbacks would be limited to what is shown on this

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document.

Timeline:

October 21, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

December 14, 2022: The Sustainable Development and Construction 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 December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, 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.

December 22, 2022: The applicant provided additional evidence (**Attachment A**).

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers: For: Sam Mallick 2323 Victory #700 Dallas, TX
Aimee Furness 2323 Victory #700 Dallas, TX

Against: No Speakers

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 223-003, on application of Brent Jackson represented by Aimee Furness, **GRANT** the five-foot eight-inch variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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Maker:	Lawrence Halcomb				
Second:	Rachel Hayden				
Results:	4-1				
		Ayes:	-	4	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	1	Kathleen Davis

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 223-003, on application of Brent Jackson represented by Aimee Furness, **GRANT** the five-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

Maker:	Lawrence Halcomb				
Second:	Rachel Hayden				
Results:	4-1				
		Ayes:	-	4	David A. Neumann, Rachel Hayden, Jay Narey, and Lawrence Halcomb
		Against:	-	1	Kathleen Davis

4. 10240 Gaywood Rd.
BDA223-006(OA)

BUILDING OFFICIAL'S REPORT: Application of Trenton Robertson for a special exception to the fence standards regulations and a special exception to the visual obstruction regulations at 10240 Gaywood Road. This property is more fully described as block G/5517, Lot 3D and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet, requires that 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 driveways. The applicant proposes to construct and/or maintain a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence standards regulations, and 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, and to locate and maintain items in a required 20 foot visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 10240 Gaywood Road

APPLICANT: Trenton Robertson

REQUEST:

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

3. A request for a special exception to the fence standards regulations of 2' is made to construct and maintain a 6' high limestone fence, a 6' high steel picket pedestrian gate, and two 6' high sliding steel picket gates in the required 40-foot front yard on Gaywood Road.
4. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line is made to construct and maintain the 6' high limestone panel fence with 6' high steel picket pedestrian gate, and two 6' tall sliding steel picket gates less than five feet from the front lot line.
5. A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of a 6' high solid limestone fence and portions of two metal gates located in the four, 20' visibility triangles at the driveway approach into the site from Gaywood Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS (fence standards regulations):

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 the neighboring property.

STAFF RECOMMENDATION (fence standards regulations):

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 (visual obstruction regulations):

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 item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the requests and has no objections.

BACKGROUND INFORMATION:

Zoning:

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

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Land Use:

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

Zoning/BDA History:

There have been six related board cases in the vicinity within the last five years.

1. **BDA223-011:** On January 18, 2023, The Board of Adjustment Panel B will hear a request for a special exception to the fence height regulations at 10227 Gaywood Road, the property to the north of the subject site.
2. **BDA212-113:** On December 12, 2022, Panel C granted a request for an 8' special exception to the fence height regulations at 10203 Hollow Way Road.
3. **BDA212-082:** On September 19, 2022, Panel C denied without prejudice an eight-foot special exception to the fence height regulations at 10203 Hollow Way Road.
4. **BDA212-022:** On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
5. **BDA212-033:** On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
6. **BDA212-089:** On October 20, 2021, Panel B, Board of Adjustment granted a request for a special exception to the fence regulations, a special exception to the fence standards regulations, and two special exceptions to the visual obstruction regulations at 9646 Douglas Avenue.

GENERAL FACTS/STAFF ANALYSIS:

The following requests are made on a site developed with a single-family home:

1. A request for a special exception to the fence standards regulations of 2' is made to construct and maintain a 6' high limestone fence, a 6' high steel picket pedestrian gate, and two 6' high sliding steel picket gates in the required 40-foot front yard on Gaywood Road.
2. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line is made to construct and maintain the 6' high limestone panel fence with 6' high steel picket pedestrian gate, and two 6' tall sliding steel picket gates less than five feet from the front lot line.
3. A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of a 6' high solid limestone fence and portions of two metal gates located in the four, 20' visibility triangles at the driveway approach into the site from Gaywood Road.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard. The subject site is zoned an R-1ac(A) Single Family District which requires a 40-foot front yard setback. The site has a 40' required front yard along Gaywood Road.

Section 51A-4.602(a) (2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.

Additionally, the Dallas Development Code states that in single family districts, a fence panel with a

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surface area that is less than 50 percent open may not be located less than five from the front lot line.

The following information is shown on the submitted site plan:

- the proposal is represented as being approximately 387' in length fronting Gaywood Road. The site plan shows the proposed limestone fence zigzags between the property line and 5' into the property line along the street. The fence extends 40' perpendicular to Gaywood Road on the east and west side of the site. Furthermore, the fence is proposed to be located 13' from the pavement line.

Staff conducted a field visit of the site and surrounding area, approximately 1000 feet around the subject site, and noticed several other fences that appear to be above four feet in height and located in a front yard setback.

As of January 6, 2022, 30 letters have been submitted in support and no letters in opposition to this request.

With regard to the requests for special exceptions to the fence standards regulations, the applicant has the burden of proof in establishing that the special exceptions will not adversely affect the neighboring property.

Additionally, Section 51A-4.602(d) of the Dallas Development Code states the following: 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).

As noted on the site plan, the proposed fence would obstruct:

- Portions of a 6' solid limestone fence and portions of two metal gates located with the 4, 20-foot visibility triangles at the driveway approach into the site from Gaywood Road.

The Sustainable Development Department Senior Engineer has no objections to the requests (**Attachment B**).

With regard to the requests for special exceptions to the visual obstruction regulations, the applicant has the burden of proof to establish how granting these requests to locate and maintain the fence and gates in the two 20' visibility triangles on either side of the driveways does not constitute traffic hazards.

Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items in the two 20-foot visibility triangles on the west and east sides of the driveways into the site from Gaywood Road to that what is shown on these documents.

Timeline:

- November 1, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

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- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, 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.

December 23, 2022: The applicant provided additional evidence (**Attachment A**).

December 23, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 27, 2022: The Sustainable Development Department Senior Engineer has no objections to the requests (**Attachment B**).

Speakers: For: Trenton Robertson 2201Main St. #1280 Dallas
AJ Kumaran 5631 Cazadium Dr. Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-006 **hold** this matter under advisement until **February 21, 2023**.

Maker:	David A. Neumann				
Second:	Lawrence Halcomb				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0	

HOLDOVER ITEMS

1. 6524 Alpha Rd.
BDA212-111(OA)

BUILDING OFFICIAL’S REPORT: BDA212-111. Application of Jackson Walker L.L.P. represented by Jonathan Vinson for a special exception to the fence height regulations, and a special exception to the fence standards regulations, and a special exception to the visibility obstruction regulations, and a special exception to the visibility obstruction regulations at 6524 Alpha Road. This property is more fully described 84.991 acre parcel in Block 7432 and is zoned R-1/2ac(A), which limits the height of a fence

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in the front yard to 4 feet, 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 lot line, and requires a 20 foot visibility triangle at driveway approaches, requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct an 6 foot 9 inch high fence in a required front yard, which will require a 2 foot 9 inch special exception to the fence regulations, and proposes to construct a fence in a required front yard with a fence panel less than 5 feet from the front lot line, which will require a special exception to the fence regulations, and proposes to construct a nonresidential structure in a required 20 foot visibility obstruction triangle, which will require a special exception to the visibility obstruction regulations, and proposes to construct a nonresidential structure in a required 45 foot visibility obstruction triangle, which will require a special exception to the visibility obstruction regulations..

LOCATION: 6524 Alpha Road

APPLICANT: Jackson Walker L.L.P
represented by Jonathan Vinson

REQUESTS:

The following requests have been made on a site that is developed with a Golf Club (Northwood Club):

6. A request for a special exception to the fence standards regulations related to the maximum fence height of four feet is made to replace an existing chain-link fence and maintain up to six-foot nine-inch-high fence with solid metal panels that represent an open wrought iron appearance fence with stone columns and five gates in the site's two front yards (Alpha Road and Hughes Lane).
7. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line is made to construct and maintain the six-foot nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns and five gates less than five feet from the front lot lines (Alpha Road and Hughes Lane).
8. A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of the six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns and five gates within the 20-foot visibility triangles at the intersection of street and drive approaches into the site from Alpha Road.
9. A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of the six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns within the 45-foot visibility triangle at the intersection of Hughes Lane and Alpha Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards regulations 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 (fence standards regulations):

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

STAFF RECOMMENDATION (visual obstruction regulations):

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 item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the proposed obstructions for the fence and has no objections of the requests.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with Golf Club (Northwood Club). The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS (fence standards special exceptions):

The requests for special exceptions to the fence standards regulations on a site developed with a with a Golf Club (Northwood Club) focus on:

1. Replacing and maintaining up to six-foot nine-inch-high fence with solid metal panels that represent an open wrought iron appearance fence with stone columns and five gates in the site's two front yards (Alpha Road and Hughes Lane); and,
2. Constructing/maintaining the six-foot nine-inch-high fence with solid metal panels that represent an open wrought iron appearance fence with stone columns and five gates in the site's two front yards (Alpha Road and Hughes 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. Note that the Golf Club is located within R-1/2ac(A) Single Family Zoning District. The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when

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located in the required front yard and that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. This District which requires a 40-foot front yard setback.

The applicant has submitted a site plan and elevation of the proposed fence. The site plan and elevation represent a fence that is over four feet in height (six-foot nine-inch-high fence with solid metal panels that represent an open wrought iron appearance fence with stone columns and five gates) in the site's required front yards.

- The following additional information was gleaned from the submitted site plan:
 - The proposed fence is approximately 2100.7 feet in length parallel to Alpha Road and runs an additional 961.08 feet parallel to Hughes Lane in the required front yards.
 - The minimum distance between the proposed fence and the pavement line is approximately 3 feet 5 inches.

The Development Services Department Senior Planner conducted a field visit of the site and the surrounding area and notice two other fences that appeared to be above four feet in height and located in a front yard setback. These existing fences have no recorded BDA history within the last five years.

As of November 4, 2022, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height (six-foot nine-inch-high fence with solid metal panels that represent an open wrought iron appearance fence with stone columns and five gates in the site's two front yards Alpha Road and Hughes Lane) and related to a fence with panels with surface areas less than 50 percent open within five feet of the front lot line will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposed fence, which exceeds four feet in height in the front yard setback and with fence panels with surface areas less than 50 percent open within five feet of the front lot line, to be constructed and maintained in the location, heights, and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

These requests for special exceptions to the visual obstruction regulations focus on constructing and maintaining portions of a six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns and five gates with in the required 20-foot visibility triangle at the driveway approaches and within the required 45-foot visibility triangle at the street intersections of Alpha Road and Hughes Lane.

The Dallas Development Code states the following: 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 at alleys on properties zoned single family); and

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- 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).

The applicant is requesting special exceptions to the visual obstruction regulations for the 10 required 20-foot visibility triangles on each side of the driveway into the site on Alpha Road and the applicant is requesting special exceptions to the visual obstructions' regulations for the required 45-foot visibility triangles at the intersection of Alpha Road and Hughes Lane.

The applicant submitted a site plan and elevation indicating portions of a six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns and five gates within the 20' visibility triangle located on each side of the driveway into the site on Alpha Road. Furthermore, the submitted site plan and elevation indicating portions of a six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns within the within the 45' visibility triangle at the intersection of Alpha Road and Hughes Lane.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".

As of November 4, 2022, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations, to locate and maintain portions a six-foot-nine-inch-high solid metal panels with an open wrought iron appearance fence with stone columns and five gates within the required 20-foot visibility triangle at the driveway approaches and requires a 45-foot visibility triangle at the street intersections, do not constitute a traffic hazard.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the fence exceeding four-feet-in-height in the front yard setback and all visual obstructions to be constructed in the locations and heights as shown on these documents.

Timeline:

September 14, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 13, 2022: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

October 14, 2022: The Sustainable Development and Construction 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 October 24th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.

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October 24, 2022: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

October 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included the Development Services Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, The Development Services Chief Planner, Development Service Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Transportation Development Services Senior Engineer, Development Services Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 31, 2022: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet (**Attachment B**).

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 28, 2022: The applicant submitted a revised site plan (**Attachment C**).

Speakers: For: Jonathan Vinson 2323 Ross Ave. #600 Dallas

Against: No Speakers

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 212-111, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **grant** the request of this applicant to construct and/or maintain a six-foot nine-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 revised site plan / elevation, dated December 28, 2022, is required.

Maker:	Kathleen Davis				
Second:	Lawrence Halcomb				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb

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		Against:	-	0

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 212-111, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **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 the submitted revised site plan / elevation, dated December 28, 2022, is required.

Maker:	Kathleen Davis			
Second:	Lawrence Halcomb			
Results:	5-0 unanimously			
		Ayes:	-	5
				David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0

Motion #3

I move that the Board of Adjustment, in Appeal No. BDA 212-111, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **GRANT** the request to maintain items in the 20-foot visibility triangle at the drive approach on Alpha Road as a special exception to the visual obstruction regulations 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 revised site plan / elevation, dated December 28, 2022, is required.

Maker:	Kathleen Davis			
Second:	Rachel Hayden			
Results:	5-0 unanimously			
		Ayes:	-	5
				David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0

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Motion #4

I move that the Board of Adjustment, in Appeal No. BDA 212-111, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **deny** the special exception requested by this applicant to maintain items in the 45-foot visibility triangle at the street intersection of Hughes Lane and Alpha Road **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

Maker:	Kathleen Davis				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0	

2. 6625 Alpha Rd.
BDA212-112(OA)

BUILDING OFFICIAL’S REPORT: BDA212-112. Application of Jackson Walker L.L.P. represented by Jonathan Vinson for a special exception to the fence height regulations, and special exception to the visibility obstruction regulations, and special exception to the fence standards regulations at 6625 ALPHA RD. This property is more fully described as 76.165 acre parcel in Block 7421 and is zoned R-1/2ac(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 lot line, and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 6 foot 9 inch high fence in a required front yard, which will require a 2 foot 9 inch special exception to the fence regulations, and proposes to construct a fence in a required front yard with a fence panel less than 5 feet from the front lot line, which will require a special exception to the fence regulations, and proposes to construct a nonresidential structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation..

LOCATION: 6525 Alpha Road

APPLICANT: Jackson Walker L.L.P.
represented by Jonathan Vinson

REQUESTS:

The following requests have been made on a site that is developed with a Golf Club (Northwood Club):

10. A request for a special exception to the fence standards regulations related to the maximum fence height of four feet is made to replace an existing chain-link fence and maintain a 6’ tall open tubular metal fence with 6’ 9” stone columns and five solid metal gates and five gates within the site’s front yard.
11. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line is made to construct and maintain 5 solid metal gates with panels less than 50 percent open and less than five feet from the front lot line.
12. A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of 6’ tall open tubular metal fence with 6’ 9” stone columns and the solid metal gates within

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the 20-foot visibility triangles at the intersection of street and drive approaches into the site from Alpha Road.

UPDATE FOR JANUARY 17, 2023, PUBLIC HEARING:

On November 15, 2022, the Board of Adjustment Panel A held this case to the January 17th public hearing date.

On December 28, 2022, the applicant submitted a revised site plan clarifying the height of the fence, the materials of the fence, the fence openness and indicating the especial exception to the fence panels with a surface area that is less than 50 percent open is only required for the proposed solid metal gates. Furthermore, the revised site plan depicts all gates and the encroachment into the visibility triangle as requested by staff to easily represent the requests to the Board of Adjustment members. The applicant understands that the approval of the above especial exceptions will be subject to what is shown on the revised site plan submitted December 28, 2022.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards regulations 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 (fence standards regulations):

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

STAFF RECOMMENDATION (visual obstruction regulations):

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 item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the proposed obstructions for the fence and has no objections of the requests.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2ac(A) (Single Family District)
North: R-1/2ac(A) (Single Family District)

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South: R-1/2ac(A) (Single Family District)
East: R-1/2ac(A) (Single Family District)
West: R-1/2ac (A) (Single Family District)

Land Use:

The subject site is developed with Golf Club (Northwood Club). The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS (fence standards special exceptions):

The requests for special exceptions to the fence standards regulations on a site developed with a with a Golf Club (Northwood Club) focus on:

3. Replacing and maintaining a 6' tall open tubular metal fence with 6' 9" stone columns and five solid metal gates within the site's front yard: and,
4. Constructing/maintaining five solid metal gates with panels less than 50 percent open and less than five feet from in the site's front yard.

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. Note that the Golf Club is located within R-1/2ac(A) Single Family Zoning District. 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 and that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. This District which requires a 40-foot front yard setback.

The applicant has submitted a site plan and elevation of the proposed fence. The site plan and elevation represent a fence that is over four feet in height (a 6' tall open tubular metal fence with 6' 9" stone columns and five solid metal gates) in the site's required front yards.

- The following additional information was gleaned from the submitted site plan:
 - The proposed fence is approximately 2000 feet in length parallel to Alpha Road in the required front yard.
 - The minimum distance between the proposed fence and the pavement line is approximately 3 feet 5 inches.

The Development Services Department Senior Planner conducted a field visit of the site and the surrounding area and notice two other fences that appeared to be above four feet in height and located in a front yard setback. These existing fences have no recorded BDA history within the last five years.

As of November 6, 2022, one letter has been received in opposition and no letters have been received in support of this request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height (a 6' tall open tubular metal fence with 6' 9" stone columns and five solid

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metal gates in the site's front yard) and related to a fence with panels with surface areas less than 50 percent open within five feet of the front lot line will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposed fence, which exceeds four feet in height in the front yard setback and with fence panels with surface areas less than 50 percent open within five feet of the front lot line, to be constructed and maintained in the location, heights, and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

These requests for special exceptions to the visual obstruction regulations focus on constructing and maintaining portions of a 6' tall open tubular metal fence with 6' 9" stone columns and the solid metal gates with in the required 20-foot visibility triangle at the intersection of street and drive approaches into the site from Alpha Road.

The Dallas Development Code states the following: 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 at 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).

The applicant is requesting special exceptions to the visual obstruction regulations for the 10 required 20-foot visibility triangles on each side of the driveway into the site on Alpha Road.

The applicant submitted a site plan and elevation indicating portions of a 6' tall open tubular metal fence with 6' 9" stone columns and the solid metal gates within the 20' visibility triangle located on each side of the driveway into the site on Alpha Road.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".

As of November 6, 2022, one letter has been received in opposition and no letters have been received in support of this request.

The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations, to locate and maintain portions a 6' tall open tubular metal fence with 6' 9" stone columns and the solid metal gates within the required 20-foot visibility triangle at the driveway approaches and requires a 45-foot visibility triangle at the street intersections, do not constitute a traffic hazard.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the fence exceeding four-feet-in-height in the front yard setback and all visual obstructions to be constructed in the locations and heights as shown on these documents.

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Timeline:

- September 14, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 13, 2022: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- October 14, 2022: The Sustainable Development and Construction 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 October 24th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.
- October 24, 2022: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- October 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included the Development Services Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, The Development Services Chief Planner, Development Service Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Transportation Development Services Senior Engineer, Development Services Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- October 27, 2022: The Transportation Development Services Senior Engineer submitted a comment sheet (**Attachment B**). The Transportation Development Services Senior Engineer reviewed the requests and has no objection.
- November 15, 2022: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application until their next public hearing to be held on January 17, 2023.
- November 15, 2022: The Senior Planner wrote the applicant a letter of the board's action indicating the December 28th deadline to submit additional evidence for staff to factor into their analysis; and the January 6th deadline to submit additional evidence to be incorporated into the Board's docket materials.
- December 23, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review

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team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 28, 2022: The applicant submitted a revised site plan (**Attachment C**).

Speakers: For: Jonathan Vinson 2323 Ross Ave. #600 Dallas
Against: No Speakers

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 212-112, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **grant** the request of this applicant to construct and/or maintain a six-foot nine-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 revised site plan / elevation, dated December 28, 2022, is required.

Maker:	Kathleen Davis				
Second:	Jay Narey				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0	

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 212-112, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **grant** the request to maintain items in the 20-foot visibility triangle at the drive approach on Alpha Road as a special exception to the visual obstruction regulations 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:

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Second:	Lawrence Halcomb				
Results:	5-0 unanimously				

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		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0	

Motion #3

I move that the Board of Adjustment, in Appeal No. BDA 212-112, on application of Jackson Walker L.L.P. represented by Jonathan Vinson, **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 the submitted revised site plan / elevation, dated December 28, 2022, is required.

Maker:	Kathleen Davis				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey, Kathleen Davis and Lawrence Halcomb
		Against:	-	0	

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chair Neumann moved to adjourn the meeting; motion by Jay Narey, seconded by Lawrence Halcomb at 5:11 p.m.

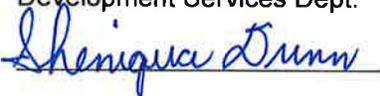
Recess- 4:04 p.m.; Resume- 4:10 p.m.



Required Signature:
LaTonia Jackson, Board Secretary
Development Services Dept.

2-21-23

Date



Required Signature:
Nikki Dunn, Chief Planner/Board Administrator
Development Services Dept.

2-21-23

Date

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Required Signature:
David A. Neumann, Chairman
Board of Adjustment

Date



2/21/23