



BOARD OF ADJUSTMENT

Panel A Minutes

September 19, 2023

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CITY SECRETARY  
DALLAS, TEXAS

6ES Council Briefing  
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David A. Neumann, Chairman

**PRESENT: [5]**

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

**ABSENT: [0]**


Chair Neumann called the briefing to order at **10:30A.M.** with a quorum of the Board of Adjustment present.

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

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

**PUBLIC SPEAKERS**

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

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

**MISCELLANEOUS ITEMS**

Approval of the Board of Adjustment Panel A, August 15, 2023 public hearing minutes. One correction was made on page 33, vote results 4-1 changed to 4-0.

**Motion was made to approve Panel A, August 15, 2023 public hearing minutes.**

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

**CONSENT ITEMS**

**1. 9211 Hathaway Drive**

**\*This case was moved to Individual Cases.**

BDA223-079(KMH)

**BUILDING OFFICIAL'S REPORT** Application of Baldwin Associates for (1) a special exception to the fence height regulations; (2) a special exception to the fence opacity standard regulations; (3) a special exception to the visual obstruction regulations; (4) a special exception to the visual obstruction regulations; (5 & 6) and for two variances to the front yard setback regulations at 9211 Hathaway Street. This property is more fully described as Block 7/5597, Lot 29B, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet; requires a 20-foot visibility triangle at driveway approaches, requires a 45-foot visibility triangle at street intersections; requires a fence panel with a surface area that is less than 50 percent open not be located less than 5-feet from the front lot line; and requires a front yard setback of 40-feet. The applicant proposes to construct an 8-foot high fence in a required front yard, which will require (1) a 4-foot special exception to the fence height regulations; and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require (2) a special exception to the fence opacity regulations; and to construct a single-family residential fence structure in a required visibility obstruction triangle, which will require (3) a 20-foot special exception to the visual obstruction regulations; and to construct a single-family residential fence structure in a required visibility obstruction triangle, which will require (4) a 45-foot special exception to the visual obstruction regulations; and to construct a single-family residential structure and provide a 5-foot front yard setback on Hathaway Street; and a 16-foot-6-inch setback on Northwest Highway, which will require (5) a 35-foot variance on Hathaway Street, and a (6) 23-foot 6-inch variance on Northwest Highway to the front-yard setback regulations.

**LOCATION:** 9211 Hathaway Street

**APPLICANT:** Baldwin Associates

**REQUEST:**

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

- (2) A request for a special exception to the fence opacity standard regulations,
- (3) A request for a special exception to the driveway visual obstruction regulations;
- (4) A request for a special exception to the street intersection visual obstruction regulations; and
- (5) A request for two variances to the front-yard setback regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**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.

**STANDARD FOR A VARIANCE:**

Section 51A-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.
  - (d) 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:**

Special Exception (4):

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

Hathaway Street Variance:

Denial:

Based upon the evidence presented and provided to staff, staff concluded that the variance request along **Hathaway Street**:

- not contrary to public interest as no opposition has been received;
- the site is restrictive as it is a corner lot and has two front yards and slightly irregularly shaped, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning;
- it is a self-created or personal hardship as the gas generator could be placed elsewhere aside from being placed within the front yard setback.

Northwest Highway Variance:

Approval:

Based upon the evidence presented and provided to staff, staff concluded that the variance request along **Northwest Highway**:

- not contrary to public interest as no opposition has been received;
- the site is restrictive as it is a corner lot and has two front yards and slightly irregularly shaped, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning;
- it is not self-created.

The Development Services Engineer has reviewed all pertinent documents submitted and has no objections stating, "Hathaway does not have sidewalks; Hathaway is low traffic volume; sight distance is unobstructed; and the new house eliminates one driveway."

**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-16 (A) (Single Family District)  
West: R-1ac (A) (Single Family District)

**Land Use:**

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

**BDA History:**

No BDA history

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Baldwin Associates for the property located at 9211 Hathaway Street focuses on several requests. The first request is for a special exception to the fence height regulations of 4-feet, the applicant is proposing to construct and maintain an 8-foot fence in a required front yard, which will require a 4-foot special exception to the fence height regulations. The applicant is proposing the fence along Hathaway Street and Northwest Highway. It is imperative to note that the fence along Hathaway Street will include a sliding gate.
- Secondly, the applicant proposes to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which also requires a special exception to the fence regulations.
- Thirdly, the applicant proposes to construct and maintain a single-family residential fence structure in a required visibility triangle at the driveway approach along Hathaway Street, which will require a special exception to the visual obstruction regulations which requires a 20-foot visibility triangle at all driveway approaches.
- Additionally, the applicant proposes to construct and maintain a single-family residential fence structure in a required visibility triangle at the street intersection of Hathaway Street and Northwest Highway, which also requires a special exception to the visual obstruction regulations, which requires a 45-foot visibility triangle at street intersections.
- Lastly, the applicant proposes to construct and maintain a single-family residential structure and provide a 5-foot front yard setback, where a 40-foot setback is required; therefore, requiring a variance of 35-feet to the front yard setback regulations. It is important to note that the subject site is bound by two front yards as it is a corner lot. It is highly imperative to highlight that there was an oversight during a previous plan review. During the initial plan review, part of the residential structure along Northwest Highway was approved at 20-feet and not at 40-feet.
- The subject site along with properties to the north, east, and west are zoned R-1ac(A), whereas properties to the south are zone R-16(A); all single-family residential zoning districts.
- As gleaned from the submitted site plan and elevations, the applicant is proposing an 8-foot stone and stucco veneer wall along Hathaway Street and Northwest Highway; the proposed wall/fence is shown to encroach into the visibility triangles at the intersection of Hathaway Street and Northwest Highway as well as the driveway approach along Hathaway Street. Additionally, the site plan shows that the applicant is proposing to locate a gas generator in the required front yard only 5-feet away from the property line.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that required yards must remain unobstructed; therefore, structures are not allowed within setbacks. Additionally, the Dallas Development Code states that a person shall not erect, place, or maintain a structure in a required visibility triangle.

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- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- Regarding the special exception to the visual obstruction regulations, the applicant has the burden of proof in establishing that the special exception(s) to the visual obstruction regulations does not constitute a traffic hazard.
- Granting the requests for the special exceptions to the visual obstruction regulations with a condition imposed that the applicant complies with the submitted site plan would limit the proposed fence/wall at the drive approach on Hathaway Street and at the intersections of Hathaway Street and Northwest Highway to what is shown on the submitted documents.
- Moreover, regarding the request for the variance, the applicant has the burden of proof in establishing the following:
  - That granting the variance to the side yard and front 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 a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
  - 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider State Law/HB 1475 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.
- (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (e) the municipality considers the structure to be a nonconforming structure.

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- Granting the proposed 5-foot variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

- June 23, 2023:** The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 24, 2023:** The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- August 2, 2023:** 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 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.
- August 29, 2023:** The Development Services Engineer provided a response sheet with no objections.
- August 30, 2023:** The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner Code Compliance staff.
- September 6, 2023:** The applicant submitted documentary evidence.
- September 7, 2023:** The applicant submitted additional documentary evidence.

**Speakers:**

- For:** Rob Baldwin, 3904 Elm St # B, Dallas TX 75226  
Jason Smith, 7112 Mimosa Ln, Dallas TX 75230
- Against:** No Speakers
- Staff:** David Nevarez, City of Dallas, Engineering Division

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**Motion # 1**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **GRANT** the request to construct and/or maintain a 8-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

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

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

**Motion # 2**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **GRANT** the request 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 most recent version of all submitted plans are required.

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

**Motion # 3**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **GRANT** the request to maintain items in the 45-foot visibility triangle on to Hathaway Street as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.



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

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

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

**Motion # 4**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **GRANT** the request to maintain items in the 20-foot visibility triangle on the private driveway as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the revised submitted site plan and elevation showing no sidewalk and 4-foot encroachment into visibility triangle.

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

**Motion # 5**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **DENY** the 35-foot variance to the front-yard setback regulations on Hathaway Street requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

Maker:	Rachel Hayden				
Second:	Kathleen Davis				

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

**Motion # 6**

I move that the Board of Adjustment in Appeal No. BDA 223-079, on application of Baldwin Associates, **GRANT** the 23-foot 6-inch variance to the front-yard setback regulations on Northwest Highway 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 most recent version of all submitted plans are required.

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

**2. 10020 Meadowbrook Drive**

\*This case was moved to Individual Cases  
BDA223-080(KMH)

**BUILDING OFFICIAL'S REPORT:** Application of Baldwin Associates for (1) a variance to the side-yard setback regulations; (2) a special exception to the fence height regulations; (3) a special exception to the visual obstruction regulations; (4) a special exception to the fence opacity standard regulations; and (5) a special exception to the fence material standard regulations at 10020 Meadowbrook Drive. This property is more fully described as Block 5517, Lot G, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet; requires a 10-foot side yard setback; requires a 20-foot visibility triangle at driveway approaches; and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5-feet from the front lot line; and prohibits the use of certain materials for a fence. The applicant proposes to construct and maintain a single-family residential structure and provide a 4-foot 10-inch side yard setback, which will require (1) a 5-foot 2-inch variance to the side yard setback regulations; to construct a 7-foot 9-inch-high fence in a required front yard, which will require (2) a 3-foot 9-inch special exception to the fence height regulations; and to construct a single-family residential fence structure in a required visibility obstruction triangle, which will require (3) a special exception to the visual obstruction regulations, and to construct 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 (4) a special exception to the fence opacity regulations; and to construct a fence using

a prohibited material, which will require (5) a special exception to the fence material regulations.

**LOCATION:** 10020 Meadowbrook Drive

**APPLICANT:** Baldwin Associates

**REQUEST:**

- (1) A request for a variance to the side yard setback regulations;
- (2) A request for a special exception to the fence height regulations;
- (3) A request for a special exception to the visual obstruction regulations;
- (4) A request for a special exception to the fence opacity standard regulations; and
- (5) A request for a special exception to the fence material regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**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.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE OPACITY and MATERIAL STANDARD REGULATIONS:**

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

**STANDARD FOR A VARIANCE:**

Section 51A-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
- (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:
  - (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.
  - (d) 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:**

Special Exceptions (4):

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

Variance:

Denial

Based upon the evidence presented and provided to staff, staff concluded that the request is:

- not contrary to public interest as no opposition was received;
- not restrictive in 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
- it is a self-created or personal hardship.

The Development Services Engineer has reviewed all pertinent documents submitted with no objections, stating, "Meadowbrook does not have sidewalks; Meadowbrook is low traffic volume; sight distance is unobstructed."

**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)

**Land Use:**

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

**BDA History:**

No BDA history

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Baldwin Associates for the property located at 10020 Meadowbrook Drive focuses on several requests. The first request is for a variance to the 10-foot side yard setback regulations. The applicant is proposing to construct and maintain a solarium in the required side yard providing a 4-foot 10-inch side yard, therefore requiring a variance of 5-foot 2-inches to the side yard setback regulations.
- Secondly, the applicant is requesting a special exception to the fence height regulations of 4-feet. The applicant is proposing to construct and maintain a 7-foot 9-inch high fence in the required front yard along Meadowbrook Drive; requiring a 3-foot 9-inch special exception to the fence height regulations.
- Thirdly, the applicant proposes to construct and maintain a single-family residential fence structure in a required visibility triangle at the driveway approach along Meadowbrook Drive, which will require a special exception to the visual obstruction regulations, which requires a 20-foot visibility triangle at all driveway approaches.
- Additionally, the applicant proposes to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which requires a special exception to the fence regulations.
- Lastly, the applicant proposes to construct and maintain a fence using a prohibited material, which also requires a special exception to the fence regulations.
- The subject site along with properties to the north, east, south and west are zoned R-1ac(A); all single-family residential zoning districts.
- As gleaned from the submitted site plan and elevations, the applicant is proposing a 7-foot 9-inch fence along Meadowbrook Drive. The proposed fence appears to be wrought iron, with masonry columns, with 2 vehicular gates constructed of a prohibited material. The proposed fence is shown to encroach into the visibility triangles at the driveway approaches along Meadowbrook Drive. Additionally, the site plan also shows the proposed solarium encroaching into the required side yard setback along the eastern boundary of the property.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that required yards must remain unobstructed; therefore, structures are not allowed within setbacks. Additionally, the Dallas Development Code states that a person shall not erect, place, or maintain a structure in a required visibility triangle. Moreover, the Dallas Development Code prohibits the following

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material for fence materials: sheet metal, corrugated metal, fiberglass panels, plywood, plastic materials, barbed wire and razor ribbon.

- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height, opacity and materials with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- Regarding the special exception to the visual obstruction regulations, the applicant has the burden of proof in establishing that the special exception to the visual obstruction regulations does not constitute a traffic hazard.
- Granting the request for the special exception to the visual obstruction regulations with a condition imposed that the applicant complies with the submitted site plan would limit the proposed fence at the drive approach on Meadowbrook Drive to what is shown on the submitted documents.
- Moreover, regarding the request for the variance, the applicant has the burden of proof in establishing the following:
  - That granting the variance to the side yard and front 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 a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
  - 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider State Law/HB 1475 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.
- (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (e) the municipality considers the structure to be a nonconforming structure.

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- Granting the proposed 5-foot 2-inch variance to the side yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

June 27, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

July 24, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

August 2, 2023: 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 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.

August 29, 2023: The Development Services Engineer provided a response sheet with no objections.

August 30, 2023: The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner Code Compliance staff.

**Speakers:**

For: Rob Baldwin, 3904 Elm St # B, Dallas TX 75226  
Jenny Qualls, 600 Valencia St., Dallas TX 75223

Against: No Speakers

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA223-080, on application of Baldwin Associates, **GRANT** the 5-foot 2-inch 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:

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

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

**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA223-080, on application of Baldwin Associates, **GRANT** the request of this applicant to construct and/or maintain a 6-foot 6-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 most recent version of all submitted plans are required.

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

**Motion # 3**

I move that the Board of Adjustment, in Appeal No. BDA223-080, on application of Baldwin Associates, **GRANT** the request to maintain items in the 20-foot visibility triangle on the private driveway as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the submitted site plan and elevation is required.

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

**Motion # 4**

I move that the Board of Adjustment, in Appeal No. BDA223-080, on application of Baldwin Associates, **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 most recent version of all submitted plans are required.

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

**Motion # 5**

I move that the Board of Adjustment, in Appeal No. BDA223-080, on application of Baldwin Associates, **GRANT** the request of this applicant for a special exception to the fence materials standards contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

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

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

		Against:	-	0	
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**3. 8627 Lakemont Drive**  
BDA223-081(KMH)

**BUILDING OFFICIAL'S REPORT:** Application of Audra Buckley for (1) a special exception to the fence height regulations; and (2) a special exception to the fence material regulations at 8627 Lakemont Dr. This property is more fully described as Block 5067, Lot 9, and is zoned R-10(A), which limits the height of a fence in the front yard to 4-feet and prohibits the use of certain materials for a fence. The applicant proposes to construct a 5-foot 6-inch high fence in a required front yard, which will require (1) a 1-foot 6-inch special exception to the fence height regulations; and to construct a fence using a prohibited material, which will require (2) a special exception to the fence material regulations.

**LOCATION:** 8627 Lakemont Dr.

**APPLICANT:** Audra Buckley

**REQUEST:**

- (1) A request for a special exception to the fence height regulations; and
- (2) A special exception to the fence material regulations (prohibited material).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE MATERIAL STANDARDS REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**BDA History:**

BDA201-090: Special exception for a 5-foot 6-inch high fence; approved  
Special exception for the use of prohibited materials; approved

**GENERAL FACTS/STAFF ANALYSIS:**

- The purpose of this request is for a special exception to the fence regulations of 4-feet focuses on constructing and/or maintaining an 5-foot 6-inch high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence being constructed of prohibited materials.
- The subject site and surrounding properties are zoned R-10 (A), with properties to the southwest being zoned R-7.5(A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. Additionally, the Dallas Development Code prohibits the following material for fence materials: sheet metal, corrugated metal, fiberglass panels, plywood, plastic materials, barbed wire and razor ribbon.
- As gleaned from the submitted site plan and elevations, the applicant is proposing 5-foot 6-inch high fence with steel panels (gates) in the front yard along Lakemont Drive.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 5-feet 6-inches and specified prohibited materials with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

- June 29, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 24, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- August 2, 2023: 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.

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- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 29, 2023: The Development Services Engineer provided a response sheet with no comments.

August 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings.

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

Speakers:

For: No Speakers

Against: No Speakers

**Motion # 1**

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 application 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:

**BDA223-081** - Application of Audra Buckley for a special exception to the fence height standards in the Dallas Development Code is granted subject to the following condition:

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

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

**Motion # 2**

**BDA223-081** - Application of Audra Buckley the request for a special exception to the fence material standards in the Dallas Development Code is granted subject to the following condition:

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

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

**4. 9122 Inwood Road**

\*This case was moved to Individual Cases  
BDA223-083(KMH)

**BUILDING OFFICIAL'S REPORT:** Application of Trenton Robertson for (1) a special exception to the fence height regulations, and for (2) a special exception to the fence standard regulations at 9122 INWOOD RD. This property is more fully described as Block 6/5579, Part of lot 5 and 7, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5-feet from the front lot line. The applicant proposes to construct a 9-foot 3-inch high fence in a required front yard, which will require (1) a 5-foot 3-inch special exception to the fence height regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require (2) a special exception to the fence opacity regulations.

**LOCATION:** 9122 Inwood Rd.

**APPLICANT:** Trenton Robertson

**REQUEST:**

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

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARD REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE OPACITY STANDARD REGULATIONS:**

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

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for any special exceptions to the fence regulations since the basis for this type of appeal is when in the opinion of the board, the special

exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-1ac(A) (Single Family District)  
North: PD 815  
East: R-1ac (A) (Single Family District)  
South: R-1ac (A) (Single Family District)  
West: R-1ac (A) (Single Family District)

**Land Use:**

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

**BDA History:**

No BDA history found within the last 5 years.

**GENERAL FACTS/STAFF ANALYSIS:**

- The purpose of this request is for a special exception to the fence regulations of 4-foot focuses on constructing and/or maintaining an 9-foot 3-inch high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line.
- The subject site and surrounding properties are zoned R-1ac (A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line.
- As gleaned from the submitted site plan and elevations, the applicant is proposing 9-foot 3-inch high masonry wall in the front yard along Inwood Road and along Northwest Highway.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 9-feet 3-inches and location of fence panels with surface areas that are less than 50 percent open on the site with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

July 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

July 24, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

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**August 2, 2023:** 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 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.

**August 29, 2023:** The Development Services Engineer provided a response sheet with no objections.

**August 30, 2023:** The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings.

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

**Speakers:**

**For:** Trenton Robertson, 22010 S. Main St., Ste 1280, Dallas TX  
**Against:** No Speakers

**Motion**

I move that the Board of Adjustment in Appeal No. BDA 223-083, **HOLD** this matter under advisement until **November 14, 2023**.

<b>Maker:</b>	Lawrence Halcomb				
<b>Second:</b>	Kathleen Davis				
<b>Results:</b>	5-0 Unanimously				Moved to hold until November 14 <sup>th</sup> .
		<b>Ayes:</b>	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Lawrence Halcomb and Jay Narey
		<b>Against:</b>	-	0	

**5. 1416 S. Waverly Street**  
**BDA223-085(KMH)**

**BUILDING OFFICIAL'S REPORT** Application of Emma Villanueva Valverde by MANUEL SALAZAR for (1) a variance to the side-yard setback regulations at 1416 S. Waverly Dr. This property is more fully described as Block C/4252, Lot 1, and is zoned R-7.5(A), which requires a 10-

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foot side yard setback. The applicant proposes to construct a single-family residential structure and provide a 7-foot 6-inch side-yard setback, which will require (1) a 2-foot 6-inch variance to the side-yard setback regulations.

**LOCATION:** 1416 S. Waverly Dr.

**APPLICANT:** Emma Villanueva Valverde

**Represented by:** Manuel Salazar

**REQUEST:**

- (1) A request for a variance to the side-yard setback regulations.

**STANDARD FOR A VARIANCE:**

Section 51A-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:

- (G) **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.
- (H) **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
- (I) **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.
  - (d) 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

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in area and shape, in that the lot is irregular shaped and there is a 10-foot platted building line in one of the required side yards; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not a self-created or personal hardship.

**BDA HISTORY:**

No BDA history within the last 5 years.

**Zoning:**

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

**Land Use:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the side yard setback regulations of 2-feet and 6-inches is made to construct and/or maintain a single-family residential structure.
- The Dallas Development Code requires a setback of 5-feet for required side yards in the R-7.5(A) zoning district. However, this particular lot has a 10-foot build line in the side yard along Wright St, which imposes a stricter setback for that particular side yard.
- The applicant proposes to construct and/or maintain a single-family residential structure and provide a 7.5' side yard setback along Wright St. therefore requiring a variance of 2-feet and 6-inches.
- It is imperative to note that the existing home was built in 1948 and was built over the said 10-foot building line. The applicant is proposing to remodel the existing home.

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

- That granting the variance to the side yard and front 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 a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

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The board may also consider State Law/HB 1475 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.
- (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (e) the municipality considers the structure to be a nonconforming structure.

**Timeline:**

- July 14, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 24, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- August 2, 2023: 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 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.
- August 29, 2023: The Development Services Engineer reviewed the request and all submitted documents and has no comments.
- August 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

**Speakers:**

For: No Speakers

Against: No Speakers

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**Motion**

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

**BDA 223-085** — Application of Emma Villanueva Valverde, for a variance to the side-yard setback regulations in the Dallas Development Code is granted subject to the following condition:

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

Maker:	Rachel Hayden					
Second:	Kathleen Davis					
Results:	5-0 Unanimously					Moved to grant
		Ayes:	-		5	David A. Neumann, Kathleen Davis, Lawrence Halcomb Rachel Hayden, Jay Narey
		Against:	-		0	

**INDIVIDUAL CASES**

**6. 10427 Lennox Lane**  
BDA223-082(KMH)

**BUILDING OFFICIAL’S REPORT:** Application of James C. Shankle for (1) a special exception to the fence height regulations; (2) for a special exception to the fence opacity regulation; and (3) a special exception to the fence material standards at 10427 Lennox Ln. This property is more fully described as Block A/5532, Lot 1 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5-feet from the front lot line. The applicant proposes to construct a 6-foot 2-inch high fence in a required front yard, which will require (1) a 2-foot 2-inch special exception to the fence regulations; to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require (2) a special exception to the fence opacity regulations, and to construct a fence using a prohibited material, which will require (3) a special exception to the fence material regulations.

**LOCATION:** 10427 Lennox Ln

**APPLICANT:** James C. Shankle

**Represented by:** Mark Palmer

**REQUEST:**

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

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE OPACITY and MATERIAL STANDARD REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**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)

**Land Use:**

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

**BDA History:**

No BDA history found within the last 5 years.

**GENERAL FACTS/STAFF ANALYSIS:**

- The purpose of this request is for a special exception to the fence regulations of 4-feet focuses on constructing and/or maintaining an 6-foot 2-inch high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line. The applicant also proposes to construct a fence using prohibited materials.
- The subject site and surrounding properties are zoned R-1ac (A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line. Additionally, the

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Dallas Development Code prohibits the following material for fence materials: sheet metal, corrugated metal, fiberglass panels, plywood, plastic materials, barbed wire and razor ribbon.

- As gleaned from the submitted site plan and elevations, the applicant is proposing 6-foot 2-inch high fence in the front yard along Lennox Lane.
- The proposed fence materials appear to be that of solid stone and/or masonry materials.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 6-feet 2-inches and location of fence panels with surface areas that are less than 50 percent open on the site with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

July 7, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

July 24, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

August 2, 2023: 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 August 21, 2023, deadline to submit additional evidence for staff to factor into their analysis; and September 8, 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.

August 21, 2023: The applicant provided documentary evidence.

August 29, 2023: The Development Services Engineer provided a response sheet with no comments.

August 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings.

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

BOARD OF ADJUSTMENT  
September 19, 2023

Speakers:

For: Mark Palmer, 4529 Fargo dr., Plano TX 75093  
Jimmy Shankle, 10427 Lennox In., Dallas TX 75229  
Terri Shankle., 10427 Lennox Ln., Dallas TX 75229

Against: Larry Smith., 4701 Kelsey Rd., Dallas TX 75229  
Thomas Taff. 10446 Lennox Ln., Dallas, TX 75229

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 223-082, on application of James C. Shankle, **GRANT** the request of this applicant to construct and/or maintain a 6-foot 2-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 most recent version of all submitted plans are required.

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

**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 223-082, on application of James C. Shankle, **DENY** 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 **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

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

**Motion # 3**

I move that the Board of Adjustment, in Appeal No. BDA 223-082, on application of James C. Shankle, **DENY** the request of this applicant for a special exception to the fence materials standards

BOARD OF ADJUSTMENT  
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**without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

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

\*\*\*Recess: 2:44 p.m.; Resume: 2:51 p.m.\*\*\*

**ADJOURNMENT**

After all business of the Board of Adjustment had been considered, Chair Neumann moved to adjourn the meeting at 4:15 p.m.

  
Required Signature:

Mary Williams, Board Secretary  
Development Services Dept.

11/14/2023  
Date

  
Required Signature:

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

11-14-23  
Date

  
Required Signature:

David A. Neumann, Chairman  
Board of Adjustment

11/14/23  
Date