



BOARD OF ADJUSTMENT

Panel B Minutes

September 18, 2024

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room
24974849659@dallascityhall.webex.com

Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, Vice-Chair (Virtual)	
Sarah Lamb, Presiding Officer	
Joe Cannon	
Phil Sahuc	
Dr. Emmanuel Glover	

ABSENT: [0]

Vice-Chair Cheri Gambow made the motion to select Sarah Lamb as Presiding Officer, seconded by Phil Sahuc, and was called the briefing to order at **10:31 A.M.** with a quorum of the Board of Adjustment present.

Presiding Officer Sarah Lamb 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 testimony opportunities for individuals to comment on matters that were scheduled on the posted meeting agenda.

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

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B, May 22nd and August 21st, 2024, Meeting Minutes.

Motion was made to approve Panel B, May 22nd and August 21st, 2024, Public Hearing Minutes.

Maker:	Joe Cannon				
Second:	Dr. Emmanuel Glover				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Sarah Lamb, Cheri Gambow, Joe Cannon, Phil Sahuc and Dr. Emmanuel Glover
		Against:	-	0	

UNCONTESTED CASES

1. 2323 N. Carroll Avenue

BDA234-103(BT)

Board Member Joe Cannon had a conflict on this case: Out at 1:05 pm – In at 1:58 pm

BUILDING OFFICIAL’S REPORT: Application of Josh LeComte represented by Nicholas Batey for (1) a special exception to the 20-foot visibility obstruction regulations; and for (2) a special exception to the 45-foot visibility obstruction regulations at **2323 N. CARROLL AVE**. This property is more fully described as Block K/662, LOT 20, and is zoned MF-2(A), which requires a 20-foot visibility triangle at driveway approaches and requires a 45-foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (1) a special exception to the visibility obstruction regulation; and to construct and/or maintain a single-family residential fence structure in a required 45-foot visibility obstruction triangle, which will require (2) a special exception to the visibility obstruction regulation at the intersection of N. Carroll Ave. and Rusk Ave.

LOCATION: 2323 N. Carroll Ave.

APPLICANT: Josh LeComte

REPRESENTED BY: Nicholas Batey

REQUEST:

- (1) A special exception to the 20-foot visibility obstruction regulations at the driveway; and
- (2) A special exception to the 45-foot visibility obstruction regulations at the intersection of Rusk Ave. and N. Carroll Ave.

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

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

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

- Site:** MF-2(A) (Multifamily District)
- North:** R-7.5(A) (Single Family District)
- East:** MF-2(A) (Multifamily District)
- South:** PD-277 (Light assembly) and PD-305 (Maximum densities)
- West:** MF-2(A) (Multifamily District)

Land Use:

The subject site and surrounding properties are developed with single-family, multi-family and duplex uses.

BDA History:

BDA history found in the last five years BDA234-060

- The Board of Adjustment Panel B, at its public hearing held on Wednesday, May 22nd, 2024, moved to **DENY** the special exception requested by this applicant to construct and/or maintain a 8-foot high fence **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property
- The Board of Adjustment Panel B, at its public hearing held on Wednesday, May 22nd, 2024, moved to **GRANT** the request to maintain items in the 20-foot visibility triangle at the 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.
- The Board of Adjustment Panel B, at its public hearing held on Wednesday, May 22nd, 2024, moved to **DENY** the special exception requested by this applicant to maintain items in the 45- foot visibility triangle at the intersection of Rusk Ave. and N. Carroll Ave. **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Josh LeComte for the property located at 2323 N. Carroll Ave. focuses on 2 requests relating to the visibility obstruction regulations.
- The applicant proposes to construct and maintain and 6-foot high gate and fence in a required front yard, on a vacant lot, along N. Carroll Ave. and Rusk Ave., which by right is allowed in MF-2(A). **SEC. 51A-4.602.(a)(4)** In multifamily districts, a fence located in the required front yard may be built to a maximum height of six feet above grade if all conditions in the following subparagraphs are met:

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- No lot in the blockface may be zoned as a single family or duplex district.
- No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.
- No fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.
- The fence proposed material is 5.25" horizontal wood planks.
- First, the applicant is requesting a special exception to the 20-foot visibility obstruction triangle at the drive approach along Rusk Ave. The proposed 6-foot high fence encroach about 10-foot 6-inches into the visibility obstruction triangle on the northeastern boundary of Rusk Ave.
- Secondly, the applicant is requesting a special exception to the 45-foot visibility obstruction triangle at the corner of N. Carroll Ave and Rusk Ave. The proposed 6-foot high fence encroach about 30-foot into the visibility obstruction triangle on the boundary of N. Carroll Ave. and Rusk Ave.
- The subject site along with surroundings properties to the north, south, east and west are all developed with single-family homes, multifamily and duplexes.
- It is imperative to note that the subject site is a corner lot, and it has street frontage on N. Carroll Ave and Rusk Ave.
- Based upon staff's analysis of the surrounding properties, there was one homes along Rusk Ave. with a fence in the required front yard. There were two homes along N. Carroll Ave. with a fence and gate in the required front yard and/or some form of vegetation serving as a screening mechanism near the intersection of Capitol and N. Carroll.
- Per staff's review of the subject site, it has been confirmed that the fence surrounding the circumference of the property is proposed.
- Per engineering review comment sheet, site plan must comply with visibility triangle dimensions of at least 30' x 30' at corner of two public streets.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations regarding visual obstruction will not constitute a traffic hazard.
- Granting the special exceptions to the fence standards relating to height, opacity and visibility obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-103 at 2323 N Carroll Ave](#)

Timeline:

- July 18, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

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August 21, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 30, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer

Speakers:

For: Josh LaComte, 5740 Prospect Ave # 2112, Dallas TX 75206

Against: Oscar Casas, 4419 Rusk Ave., Dallas TX 75204
Christina Casas, 4419 Rusk Ave., Dallas TX 75204

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-103, on application of Josh Lecomte, **GRANT** the request to maintain items in the 20-foot visibility triangle at the driveway approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the most recent version of all submitted plans, in regards to the portion in violation of the visual obstruction triangle, are required.

Maker:	Phil Sahuc				
Second:	Sarah Lamb				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-103, on application of Josh Lecomte, **GRANT** the request to maintain items in the 45-foot visibility triangle at the intersection of N. Carrell

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Ave. and Rusk Ave. as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

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

Maker:	Phil Sahuc				
Second:	DR. Emmanuel Glover				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

2. 8510 Military Parkway
BDA234-107(CJ)

BUILDING OFFICIAL'S REPORT: Application of Rey Roca for (1) a special exception to the fence height regulations at 8510 Military Parkway. This property is more fully described as Block 6218, Lot 1, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4-feet. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence height regulations.

LOCATION: 8510 Military Parkway

APPLICANT: Rey Roca

REQUEST:

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

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT 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 standard regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

STAFF RECOMMENDATION:

Special Exception (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History:

- No BDA history found at 8510 Military Parkway in the last 5 years.

Square Footage:

- This lot contains 571,942.8 of square feet.
- This lot is zoned R-7.5(A) which has a minimum lot size of 7,500 square feet.

Zoning:

<u>Site:</u>	R-7.5 (A) (Single Family District)
<u>North:</u>	R-7.5 (A) (Single Family District)
<u>East:</u>	R-7.5 (A) (Single Family District)
<u>South:</u>	R-7.5 (A) (Single Family District)
<u>West:</u>	R-7.5 (A) (Single Family District)

Land Use:

The subject site and surrounding properties to the north, south, east and west are developed with uses permissible in the R-7.5(A) zoning district.

GENERAL FACTS/STAFF ANALYSIS:

- The application for Rey Roca property located at 8510 Military Parkway focuses on one request relating to fence height regulations.
- The applicant proposes to construct and maintain a 6-foot fence in required front yards, which will require a 2-foot special exception to the fence height regulations.
- The subject site is developed with a school. Properties to the north, south, east, and west are all developed with single-family homes.
- It is imperative to note that the subject site has triple street frontage on Darby Drive, Military Parkway and Delafield Lane.
- The street frontage along Darby Drive, Military Parkway, and Delafield Lane all act as front yards due to block-face continuity.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to maintain a 6-foot wrought iron fence in the required front yards on Delafield Lane and Military Parkway; no parts of the fence will extend to Darby Drive.
- Based upon staff's analysis of the surrounding properties, there are a few homes along Delafield Lane with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations relating to height will not adversely affect the neighboring properties.

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- Granting the special exceptions to the fence standards relating to height regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-107 at 8510 Military Pkwy](#)

Timeline:

- July 24, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- August 12, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 30, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Rey Roca, 8510 Military Parkway, Dallas TX 75227

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-107, on application of Rey Roca, **GRANT** the request of this applicant to construct and/or maintain a 6-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

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

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Maker:	Joe Cannon				
Second:	Phil Sahuc				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Sarah Lamb, Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

INDIVIDUAL CASES

3. 5325 Kelsey Road
BDA234-096(CJ)

BUILDING OFFICIAL'S REPORT: Application of Charles Anderson for (1) a special exception to the fence height regulations; for (2) a special exception to the visibility obstruction regulations at driveway #1; and for (3) a special exception to the visibility obstruction regulations at driveway #2 at 5325 Kelsey Rd. This property is more fully described as Block A/5517, Lot 9, and is zoned R-1ac(A), which limits the height of a fence in the front-yard to 4-feet and requires a 20-foot visibility triangle at the driveway approaches. The applicant proposes to construct and/or maintain an 8-foot-high fence in a required front-yard, which will require (1) a 4-foot special exception to the fence height regulations; the applicant proposes to construct and/or maintain a single-family residential fence structure in a required visibility obstruction triangle, which will require (2) a special exception to the 20-foot visibility obstruction regulation at driveway #1; The applicant proposes to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (3) a special exception to the visibility obstruction regulation at driveway #2.

LOCATION: 5325 Kelsey Rd.

APPLICANT: Charles C. Anderson

REQUEST:

- (4) A special exception to the fence height regulations; and
- (5) A special exception to the 20-foot visibility obstruction regulations at the first drive approach; and
- (6) A special exception to the 20-foot visibility obstruction regulations at the second drive approach.

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

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

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

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board may grant a special

exception to the visual obstruction regulations when in the opinion of the board, **the special exception will not constitute a traffic hazard.**

STAFF RECOMMENDATION:

Special Exceptions (3):

No staff recommendation is made on this or any request for a special exception since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring properties nor will it constitute a traffic hazard.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 5325 Kelsey Road in the last five years.

Square Footage:

- This lot contains 42,253.2 of square feet.
- This lot is zoned R-1ac(A) which has a minimum lot size of 1 acre or 43,650 square feet.

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Charles C. Anderson property located at 5325 Kelsey Road focuses on 3 requests relating to the fence height and visual obstruction regulations.
- The applicant is proposing to construct and maintain a 7-foot 6-inch fence with 8-foot stone columns in a required front yard, which will require a 4-foot special exception to the fence height regulations.
- Secondly, the applicant is proposing to maintain a single-family residential fence structure in required 20-foot visibility obstruction triangles, which will require a special exception to the 20-foot visibility obstruction regulations at drive approach #1 (west).
- Lastly, the applicant is proposing to maintain a single-family residential fence structure in required 20-foot visibility obstruction triangles, which will require a special exception to the 20-foot visibility obstruction regulations at drive approach #2 (east).
- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.

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- As gleaned from the submitted site plan and elevations, the applicant is proposing to maintain a 7-foot 6-inch fence with 8-foot stone columns along the front yard of the home.
- The proposed fence is material is wrought iron connected by stone columns.
- It is imperative to note that the subject site is a mid-block lot with single street frontage on Kelsey Road.
- The applicant has stated that the request for special exception has been made for safety/security reasons.
- Based upon staff's analysis of the surrounding properties, there are a few homes along Kelsey Road with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- It has been confirmed that the proposed fence will replace the existing 4-foot fence and be placed in a similar location.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations regarding fence height, will not adversely affect neighboring properties.
- The applicant also has the burden of proof in establishing that the special exceptions to the fence regulations regarding visual obstruction will not constitute a traffic hazard.
- Granting the special exceptions to the fence standards relating to fence height and visual obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video:

Timeline:

- June 21, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- July 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this

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request and other requests scheduled for the August public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

August 21, 2024: Panel B, at its regular scheduled hearing on August 21, 2024 voted to hold this matter under advisement until September hearings.

August 30, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Peter Kavanagh, 1620 Handley St., Dallas TX 75208
Moll Anderson, 5325 Kelsey Road, Dallas TX 75229
Charles Anderson, 5325 Kelsey Road, Dallas TX 75229

Against: Julie Allen, 5337 Kelsey Rd., Dallas TX 75229
Elizabeth Winslow, 10111 Gaywood Rd., Dallas TX 75229
David Elmquist, 5351 Kelsey Rd., Dallas TX 75229
Elaine Everitt, 5106 Kelsey Rd., Dallas TX 75229

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-096, **HOLD** this matter under advisement until **October 23rd, 2024.**

Maker:	Joe Cannon				
Second:	Phil Sahuc				
Results:	5-0 Unanimously				Motion to hold
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Sarah Lamb & Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

5. 5322 Kelsey Road
BDA234-098(BT)

BUILDING OFFICIAL'S REPORT: Application of Karlyn Herlitz for (1) a special exception to the fence height regulations at **5322 KELSEY RD.** This property is more fully described as Block B/5517, Lot 10, and is zoned R-1ac(A), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain a 6-foot 6-inch-high fence in a required front-yard, which will require a 2-foot 6-inch special exception to the fence regulation.

LOCATION: 5322 Kelsey Rd.

APPLICANT: Karlyn Herlitz

REQUEST:

(7) A request for a special exception to the fence height regulations

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

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

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Karlyn Herlitz for the property located at 5322 Kelsey Rd. focuses on 1 request relating to the fence height regulations.
- The request is for a special exception to the fence height regulations. The applicant is proposing to construct and maintain a 6-foot 6-inch high iron gate and fence in a required front-yard, which will require a 2-foot 6-inch special exception to the fence height regulations.
- The subject site along with surroundings properties to the north, south east and west are all developed with single-family homes.
- As illustrated on the submitted site plan and elevations, the applicant is proposing a combination of 6-foot high iron double gate and fence with 6-foot 6-inch high stone columns, located near the front property line.
- A majority of the proposed iron fence and gate will be 6-foot high.

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- A portion of the proposed stone columns, fence and gate will be constructed on an existing retaining wall.
- Based upon staff's analysis of the surrounding properties, some properties provided a fence and gate exceeding 4-feet above grade in the required front yard and/or some provided a form of vegetation serving as a screening mechanism along Kelsey Rd.
- The applicant provided a motor vehicle theft police report from 2022.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height will not adversely affect the neighboring properties.
- 200' Radius Video: [BDA234-098 at 5322 Kelsey Rd](#)

Timeline:

- June 25, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- July 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and August 9, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- August 21, 2024: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, August 21, 2024, moved to **HOLD** this matter under advisement until **September 18, 2024**.
- August 21, 2024: The Development Services 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 August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 30, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Peter Kavanagh, 1620 Handley St., Dallas TX 75208
Grant Herlitz, 5322 Kelsey Rd., Dallas TX 75229
Karlyn Herlitz, 5322 Kelsey Rd., Dallas TX 75229

Against: Julie Allen, 5337 Kelsey Rd., Dallas TX 75229
Elizabeth Winslow, 10111 Gaywood Rd., Dallas TX 75229
David Elmquist, 5351 Kelsey Rd., Dallas TX 75229
Elaine Everitt, 5106 Kelsey Rd., Dallas TX 75229

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-098 **HOLD** this matter **under advisement until October 23rd, 2024.**

Maker:	Joe Cannon				
Second:	Phil Sahuc				
Results:	5-0 Unanimously				Motion to hold
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

INDIVIDUAL CASES

6. BDA234-103_FR1
BDA234-098(BT)

BUILDING OFFICIAL’S REPORT: Application of **Josh LeComte** represented by **Nicholas Batey** for **(1)** a special exception to the 20-foot visibility obstruction regulations, and for **(2)** a special exception to the 45-foot visibility obstruction regulations at **2323 N. CARROLL AVE**. This property is more fully described as Block K/662, LOT 20, and is zoned MF-2(A), which requires a 20-foot

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visibility triangle at driveway approaches and requires a 45-foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require **(1)** a special exception to the visibility obstruction regulation; and to construct and/or maintain a single-family residential fence structure in a required 45-foot visibility obstruction triangle, which will require **(2)** a special exception to the visibility obstruction regulation at the intersection of N. Carroll Ave. and Rusk Ave.

LOCATION: 2323 N. Carroll Ave.

APPLICANT: Josh LeComte

REPRESENTED BY: Nicholas Batey

REQUEST:

The applicant is requesting a fee reimbursement in reference to the previously approved request for the 20-foot visibility obstruction triangle application submitted at 2323 N. Carroll Ave. which will appear before Panel B on September 18, 2024.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

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

STAFF RECOMMENDATION:

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

Speakers:

For: Josh LaComte, 5740 Prospect Ave # 2112, Dallas TX 75206

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-103-FR1, on application of Josh Lecomte, **GRANT** the request to reimbursement of the filing fees to be paid in association with a request for a special exception to the 20-foot visibility triangle and the 45-foot visibility triangle regulations as requested by this applicant because our evaluation of the property and testimony shows that the payment of the fee would result in substantial financial hardship to this applicant.

Maker:	Phil Sahuc			
Second:	Cheri Gambow			
Results:	4-0			Motion to grant

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	Unanimously				
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Dr. Emmanuel Glover
		Against:	-	0	

****Recess at 2:05 pm – 2:10 pm****

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Presiding Officer Sarah Lamb moved to adjourn the meeting at 3:39 p.m.

Mary Williams

Required Signature:

Mary Williams, Board Secretary
Development Services Dept.

10.23.24

Date

Dr. Kameka Miller-Hoskins

Required Signature:

Dr. Kameka Miller-Hoskins, Board Administrator
Development Services Dept.

10/23/24

Date

Cheri Gambow

Required Signature:

Cheri Gambow, Vice Chair
Board of Adjustment

10/23/24

Date