

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, JANUARY 20, 2016**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Acting Vice-Chair, Larry Brannon, regular member, Alex Winslow, regular member, Wini Cannon, regular member and Ricardo Martinez, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Scott Hounsel, Acting Vice-Chair, Larry Brannon, regular member, Alex Winslow, regular member, Wini Cannon, regular member and Ricardo Martinez, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Jamilah Way, Asst. City Attorney, Bert Vandenberg, Asst. City Attorney, Zachary Noblitt, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Neva Dean, Interim Asst. Director and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Neva Dean, Interim Asst. Director and Trena Law, Board Secretary

11:33 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 20, 2016 docket.**

1:10 P.M.
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B November 18, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: JANUARY 20, 2016

MOTION: None

The minutes were approved.

FILE NUMBER: BDA145-156(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin for a special exception to the fence height regulations at 10245 Strait Lane. This property is more fully described as Lot 4B, Block E/5532, and is zoned R-1ac(A), which limits the height of a fence in the rear yard to 9 feet. The applicant proposes to construct and maintain an 11 foot 8 inch high fence in a required rear yard, which will require a 2 foot 8 inch special exception to the fence height regulations.

LOCATION: 10245 Strait Lane

APPLICANT: Robert Baldwin

REQUEST:

- A request for a special exception to the fence height regulations of 2’ 8” is made to construct and maintain an 11’ 6’ high masonry accent fence/wall that includes five approximately 8’ 6” high wrought iron accent panels within it in the site’s 10’ rear yard setback on a site developed with a single family home.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences 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 1 acre)
- North: R-1ac (A) (Single family district 1 acre)
- South: R-1ac (A) (Single family district 1 acre)
- East: R-1ac (A) (Single family district 1 acre)
- West: R-1ac (A) (Single family district 1 acre)

Land Use:

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

Zoning/BDA History:

1. BDA 112-032, Property at 10245 Strait Lane (the subject site)
On April 18, 2012, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 4" and imposed the submitted revised site plan/elevation as a condition to the request. The case report stated that the request was made to construct and maintain the following in the site's 40' front yard setback on a site being developed with a single family home: *parallel* to Strait Lane: a 7' 3" high open iron picket fence/wall (with 3' high stone base) with 7' 9" high brick columns, and two, 8' 8" high open iron picket gates with 8' high brick columns; and *perpendicular* to Strait Lane on the north and south "sides" of the site in the front yard setback: a 7' 3" high open iron picket fence with 7' 9" high brick columns.

2. BDA 967-213, Property at 10250 Strait Lane (the lot immediately south of the subject site)
On April 21, 1997, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations (subject to compliance with the submitted site plan, elevation plans, and landscape plan except for the portion of the proposed fence and columns to be located in the North Lindhurst drive visibility triangle), granted requests for special exceptions to visual obstruction regulations to maintain fence/columns/gates at the Strait Lane/N. Lindhurst intersection visibility triangle and at the Strait Lane drive approach (subject to compliance with the submitted site plan, elevation plans, and landscape plan except for the portion of the proposed fence and

columns to be located in the North Lindhurst drive visibility triangle), and denied a request for a special exception to the visual obstruction regulations without prejudice at the North Lindhurst Drive approach visibility triangle.

The case report stated that the requests were made to construct and maintain an a fence at a maximum height of 6' for an open metal fence; 6' 4" for stucco columns; 7' 4" for open metal gates in the front yards and in intersection and drive approach visibility triangles on the property.

GENERAL FACTS/STAFF ANALYSIS:

- The request focuses on constructing and maintaining an 11' 6" high masonry accent fence/wall that includes five approximately 8' 6" high wrought iron accent panels within it in the site's 10' rear yard setback on a site developed with a single family home.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located in an R-1ac(A) zoning district that requires a 10' rear yard setback.
- The submitted a site plan/elevation of the fence proposal indicates it is located in the site's 10' rear yard setback and that it reaches a maximum height of 11' 6".
- The submitted site plan represents that the proposal is approximately 49' in length parallel to and located on the rear property line.
- The property immediately west of where the fence is proposed on the subject site has no fence in its rear yard setback.
- According to the applicant, the portion of the proposed fence will only be along the rear of the property also owned by the owners of the subject site.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other visible fences above 9' high which appeared to be located in a rear yard setback.
- As of January 8, 2016, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' 8" will not adversely affect neighboring property.
- Granting this special exception of 2' 8" with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 9' in height in the rear yard setback to be constructed and maintained in the location and of the heights and materials this document.

Timeline:

October 19, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 10, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

December 7, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 30th deadline to submit additional evidence for staff to factor into their analysis; and the January 8th 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."

January 5, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: JANUARY 20, 2016

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm Street, Ste B, Dallas, TX
Harold Leidner, 1601 Surveyor Blvd., Carrollton, TX

APPEARING IN OPPOSITION: No one

MOTION: Cannon

I move that the Board of Adjustment, in request No. **BDA 145-156**, on application of Robert Baldwin, **grant** the request to construct and maintain an 11-foot 8-inch high

fence in the property's rear yard as a special exception to the fence height requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan/elevation is required.

SECONDED: Martinez

AYES: 4 –Hounsel, Winslow, Cannon, Martinez

NAYS: 1 - Brannon

MOTION PASSED: 4 – 1

FILE NUMBER: BDA156-004(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin for a special exception to the tree preservation regulations at 2201 Hawthorne Avenue, et al. This property is more fully described as Lots 1 through 71, Block A/2301, and is zoned PD 193, PDS 104, which requires mandatory tree mitigation. The applicant proposes to construct and maintain structures and provide an alternate tree mitigation plan, which will require a special exception to the tree preservation regulations.

LOCATION: 2201 Hawthorne Avenue, et al

APPLICANT: Robert Baldwin

REQUEST:

A special exception to the tree preservation regulations is requested in conjunction with, according to the application, allowing “additional time to complete tree mitigation” on a property that is undeveloped.

STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:

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

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

- the extent to which there is residential adjacency;
- the topography of the site;

the extent to which landscaping exists for which no credit is given under this article;
and
the extent to which other existing or proposed amenities will compensate for the
reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following conditions:

1. If the initial mitigation of 340 inches of the 1,712 inches required to be mitigated is to be completed through the Reforestation Fund, an established schedule of payment must be submitted to the Chief Arborist with the first payment of up to six installments, unless full payment is made for the 340 inches at that time. The initial installment must be made within 30 days of Board of Adjustment approval. Failure to comply with the schedule will forfeit the special exception unless full payment is completed early.
2. The minimum size of individual “small interior” or ornamental replacement trees may be reduced to 2” caliper where it is warranted for plant availability or site conditions, but the minimum amount of replacement trees planted on site must be 1,098 inches or greater.
3. All tree mitigation must be completed prior to a final certificate of completion or certificate of occupancy for all building sites in the development, or within three years of Board of Adjustment approval, whichever is sooner.

Rationale:

- The City’s Chief Arborist recommends approval of the request with the conditions above because strict compliance for timing with this code with unreasonably burden the use of the property at the special exception will not affect neighboring property. The Chief Arborist additionally concludes that:
 - 1) the purpose and function of Article X is to preserve large trees, or replace trees for the benefit of the local community back onto the tree removal property when it is practical and prudent to do so;
 - 2) the site is now finally prepared for development to be ready to receive its trees; and
 - 3) in the scope of sustaining the local urban forest, the completion of this mitigation by providing the replacement of trees back into the tree removal property is of greater importance in the long term than the prolonged time it has taken to be able to reasonably apply mitigation to the property.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (PDS 104) (Planned Development District, Multifamily)
North: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
South: IR (Industrial Research)
East: PD No. 193 (PDS 28) (Planned Development District)
West: IR (Industrial Research)

Land Use:

The subject site is undeveloped. The area to the north is developed with single family residential uses; the area to the east is developed as what appears to be an institutional/private school use; and the areas to the south and west are developed with office/industrial uses.

Zoning/BDA History:

1. BDA 145-110, Property at 2223 Hawthorne Avenue (the subject site)
On November 4, 2015, the applicant withdrew a request for a special exception to the tree preservation regulations that had been assigned to Board of Adjustment Panel B, and tentatively scheduled for their November 18, 2015 public hearing.
2. BDA 112-031, Property at 2223 Hawthorne Avenue (the subject site)
On March 21, 2012, the Board of Adjustment Panel B granted a request for a special exception to the tree preservation regulations, and imposed the following condition: Compliance with Article X tree preservation regulations is required, except that all tree mitigation must be completed before the final inspection on the first building or by March 21, 2015, whichever comes first.
The case report stated that the application was made in conjunction with allowing “additional time to complete tree mitigation” on a property that is undeveloped.
3. BDA 078-076, Property at 2223 Hawthorne Avenue (the subject site)
On June 25, 2008, the Board of Adjustment Panel B denied a request for a special exception to the tree preservation regulations without prejudice. The case report stated that the application was made in conjunction with mitigating removed protected trees on a site that is planned to be developed with a single family development.

GENERAL FACTS/STAFF ANALYSIS:

- An application has been made “to allow additional time to compete tree mitigation” on a property that is undeveloped.

- The request focuses on obtaining additional time to mitigate protected trees removed on this site beyond the 6 - 18 months the applicant had to do so from when a tree removal permit was issued on this site in November of 2006.
- The City of Dallas Chief Arborist has submitted a memo regarding this request (see Attachment B). The Chief Arborist states among other things that multiple actions and delays have extended compliance with tree replacement requirements to today which is beyond the accepted tree replacement time requirements of Section 51A-10.134.
- The City of Dallas Chief Arborist states that based on the tree survey provided in 2006, 105 trees for a total of 1,712 inches are to be replaced. As of today, there has been no replacement of protected trees nor alternate form of replacement for compliance. If they choose to pay into the Reforestation Fund, the value is \$145,842.
- The City of Dallas Chief Arborist has listed the following factors for consideration:
 1. The tree removal permit was issued on November 10, 2006.
 2. BDA123-031 was approved in March of 2012 for an extension of time to complete tree replacement. Full compliance was to be completed by the final inspection of the first building or March 21, 2015 whichever came first.
 3. The applicant is proposing the following conditions (with an added comment by the Chief Arborist) to extend the tree replacement requirements:
 - Timing: A building permit must be submitted within 90 days of the recording of the final plat for shared access developments. For all other uses, a building permit must be submitted within 180 days of the Board of Adjustment approval. Within 30 days of the Board of Adjustment approval, replacement inches not provided for on a Conceptual Tree Mitigation Plan must be completed through alternate methods of compliance as provided in the Tree Preservation Regulations of Section 51(A). If payment is made into the Reforestation Fund, the payment must be provided in SIX installments, paid biannually, within the time period to complete tree mitigation.
All tree mitigation must be completed prior to a final certificate of completion or certificate of occupancy for all building sites in the development OR within three years of Board of Adjustment approval.
 - Species: All trees to be planted from the approved replacement tree list in Section 51A=10.135 may qualify as a mitigation trees. PD 193 soil volumes allowed for landscape purposes are acceptable for mitigation trees.
 - Quantity and size: A Conceptual Tree Mitigation Plan, provided to the arborist, states a minimum of the following will be planted on the development project: 208" of 52 street trees; 348" of 87 creek edge trees; 208" of 52 large interior trees; and 608" of 152 small interior trees for a total of 1,372" of the 1,712" total mitigation required.
 - *If, due to inhospitable soil conditions or inadequate space, it would be imprudent or impracticable to plant the required trees on the property, the minimum number of inches of replacement trees that must be planted on-site must be at least 80 percent (or 1,098") of the number of inches provided on the Conceptual Tree Mitigation Plan. The remaining mitigation under this extended time schedule must be completed by alternative methods of compliance in Section 51A-10.135 of Article X.*

ARBORIST SUMMARY:

Mitigation Due:	1,712 inches (105 protected trees, \$145,842)
Mitigation Due within 30 days:	340 inches (19.9 percent)
Reforestation value:	\$28,964
Distributed in 6 installments:	\$4,827.33 per installment (1 st in 30 days)
Remaining to be completed:	1,372 inches (no less than 1,098" on site)

Based on possible unidentified landscaping restrictions, the level of planting suggested on the Conceptual Tree Mitigation Plan is acceptable. The plan accounts for most space limitations to plant trees on the property. The conceptual plan is not binding to the landscape requirements for the subdistrict.

- The City of Dallas Chief Arborist recommends that the Board approve the request for a time extension of mitigation of 1,712 inches of protected trees, with conditions, because strict compliance for timing with this code with unreasonably burden the use of the property at the special exception will not affect neighboring property.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code (i.e. mitigating all protected trees removed on the site within 30 days – 18 months from removal) will unreasonably burden the use of the property.
 - The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the conditions suggested by the Chief Arborist, the site would be granted exception from full compliance to the tree preservation regulations.

Timeline:

November 20, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 7, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

December 7, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 30th deadline to submit additional evidence for staff to factor into their analysis; and the January 8th 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.”

January 5, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

January 5, 2016: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 8, 2016: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B).

BOARD OF ADJUSTMENT ACTION: JANUARY 20, 2016

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Winslow**

I move that the Board of Adjustment, in request No. **BDA 156-004**, on application of Robert Baldwin, **grant** the request to provide an alternate tree mitigation plan as a special exception to the landscape regulations in Article X of the Dallas Development Code because our evaluation of the property and the testimony shows that strict compliance with the requirements of Article X will unreasonably burden the use of the property and the special exception will not adversely affect neighboring property, and the requirements are not imposed by a site specific landscape plan approved by the city plan commission or city council. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

1. If the initial mitigation of 340 inches of the 1,712 inches required to be mitigated is to be completed through the reforestation fund, an established schedule of payment must be submitted to the Chief Arborist with the first payment and may include up to six installments, unless full payment is made for the 340 inches at that time. The initial installment must be made within 30 days of Board of Adjustment approval. Failure to comply with the schedule will forfeit the special exception unless full payment is completed early.

2. The minimum size of individual “small interior” or ornamental replacement trees may be reduced to 2” caliper where it is warranted for plant availability or site conditions, but the minimum amount of replacement trees planted on site must be 1,098 inches or greater.
3. All tree mitigation must be completed prior to a final certificate of completion or certificate of occupancy for all building sites in the development, or within three years of Board of Adjustment approval, whichever is sooner.

SECONDED: Martinez

AYES: 5 –Hounsel, Winslow, Brannon, Cannon, Martinez

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

FILE NUMBER: BDA156-005(SL)

BUILDING OFFICIAL'S REPORT: Application of Nancy Rodriguez for a special exception to the fence height regulations at 10650 Strait Lane. This property is more fully described as Lot 4B, Block 5519, 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 maintain a 9 foot 9 inch high fence in a required front yard which will require a 5 foot 9 inch special exception to the fence height regulations.

LOCATION: 10650 Strait Lane

APPLICANT: Nancy Rodriguez

REQUEST:

A request for a special exception to the fence height regulations of 5' 9" is made to replace an existing approximately 5' high open wrought iron fence and approximately 9' high arched wrought iron entry gate with a 7' 4" high solid stone veneer fence with 8' 4" high stone veneer columns and a 9' 9" high metal entry gate on a undeveloped site.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences 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 height 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 1 acre)
- North: R-1ac (A) (Single family district 1 acre)
- South: R-1ac (A) (Single family district 1 acre)
- East: R-1ac (A) (Single family district 1 acre)
- West: R-1ac (A) (Single family district 1 acre)

Land Use:

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

Zoning/BDA History:

1. BDA 023-113, Property at 10647 Strait Lane (the lot northwest of the subject site)

On August 26, 2003, the Board of Adjustment Panel A granted a request for a special exception to fence height regulations of 4' 9" and imposed the submitted scaled elevation/site plan as a condition to the request.

The case report stated the request was made to construct and maintain a 6' high open wrought iron fence with 7' high brick columns and two 6' – 8' 9" high open wrought iron entry gates.

2. BDA 001-172, Property at 10660 Strait Lane (the lot north of the subject site)

On March 27, 2001, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 6' and a special exception to allow a 2nd electrical meter on the site. The Board imposed the submitted elevation and site/landscape plan as a condition to these requests.

The case report stated the requests were made to construct and maintain a maximum 7' high combination open fence with a 2' 4" solid masonry base and a 10' high PVC-coated metal tennis court fence, and a special exception to allow a 2nd electrical meter on a site.

3. BDA 012-221, Property at 10620 Strait Lane (the lot south of the subject site)

On August 13, 2002, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 8' 1" and imposed the submitted site plan and fence elevations as a condition to this request.

The case report stated the requests were made to construct and maintain an 8' high open metal fence with 8' 1" high metal posts, 9' 4.5" high entry columns and a 12' 1" high arched entry gate.

4. BDA 001-258, Property at 10611 Strait Lane (the lot southwest of the subject site)

On November 12, 2001, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 3' 2", granted and a request for a special exception to the single family use regulations, and granted a request for a variance to the front yard setback regulations. The board imposed the submitted revised landscape site plan and revised fence elevation with regard to the requests for a fence height special exception and front yard variance requests, and imposed the revised landscape/site plan and that the property be deed-restricted to prohibit the additional dwelling unit from being used as rental accommodations with regard to the single family use special exception. The case report stated the requests were made to construct and maintain a single family home, garage, and guest quarters on the site, and to construct and maintain an 8' 3" high open metal fence with 8' 9" high columns, and 9' 2" high metal entry gates.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on replacing an existing approximately 5' high open wrought iron fence with an approximately 9' high arched wrought iron entry gate with a 7' 4" high solid stone veneer fence with 8' 4" high stone veneer columns and a 9' 9" high metal entry gate on a undeveloped site.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is zoned R-1ac(A) and has a 40' front yard setback.
- The applicant has submitted a full site plan and partial site plan with elevation of the proposal with notations indicating that the proposal reaches a maximum height of 9' 9".
- The following additional information was gleaned from the submitted full site plan:
 - The proposal is represented as being approximately 220' in length parallel to Strait Lane.
 - The proposed fence is represented as being located on the front property line, or approximately 16' from the pavement line, and the proposed gate is represented as being located 12' from the front property line, or approximately 28' from the pavement line.

- Two single family lots front the replacement fence, one with no fence in its front yard and the other with an approximately 6' high open metal fence with 7.5' high entry gates that that appears to be the result of a fence height special exception granted by the Board in 2001: BDA 001-258.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 400 feet north and south of the subject site) and noted a number of other fences over 4' in height and in front yard setbacks. In addition to the fence immediately west of the site previously described were the following: an approximately 7' high solid fence with 9' high gate immediately north of the subject site; an approximately 9' high open metal fence with 11' high gates immediately south of the subject site; and an approximately 6' high combination open metal/solid masonry fence located northwest of the subject site. (All of these properties have recorded BDA history for requests for special exceptions to fence height regulations).
- As of January 8, 2016, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' 9" will not adversely affect neighboring property.
- Granting this special exception of 5' 9" with a condition imposed that the applicant complies with the submitted a full site plan and partial site plan with elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

November 19, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 10, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 7, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 30th deadline to submit additional evidence for staff to factor into their analysis; and the January 8th 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."

January 5, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January

public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: JANUARY 20, 2016

APPEARING IN FAVOR: Nancy Rodriguez, 10650 Strait Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment in request No. **BDA 156-005**, hold this matter under advisement until **February 18, 2016**.

SECONDED: **No one**

***Motion Failed for Lack of a Second.**

MOTION: **Winslow**

I move that the Board of Adjustment, in request No. **BDA 156-005**, on application of Nancy Rodriguez, **deny** the special exception requested by this applicant **without prejudice** because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: **Martinez**

AYES: 5 – Hounsel, Brannon, Winslow, Cannon, Martinez

NAYS: 0 -

MOTION PASSED: 5 – 0(unanmiously)

MOTION: Cannon

I move to adjourn this meeting.

SECONDED: Hounsel

AYES: 5–Hounsel, Brannon, Winslow, Cannon, Martinez

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

2:03 P.M. Board Meeting adjourned for **January 20, 2016**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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