

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, FEBRUARY 18, 2015**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair Paula Leone, regular member, Scott Housel, regular member and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair Paula Leone, regular member, Scott Housel, regular member and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, David Lam, Engineer, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, David Lam, Engineer, and Trena Law, Board Secretary

11:05 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 18, 2015 docket.**

1:05 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 January 21, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 18, 2015

MOTION: None

The minutes were approved as amended.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 134-049

REQUEST: To waive the two year limitation on a final decision reached by Board of Adjustment Panel B on May 21, 2014 - a request for a special exception to the fence height regulations that was denied with prejudice.

LOCATION: 8216 Inwood Road

APPLICANT: Santos Martinez of Masterplan

STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION ON A FINAL DECISION REACHED BY THE BOARD:

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

GENERAL FACTS/TIMELINE:

May 21, 2014: The Board of Adjustment Panel B denied a request for special exception to the fence height regulations with prejudice. The case report stated that the request was made to construct/maintain an a 6' high open iron fence and gate with 6' 6" high stucco columns in the 35' front yard setback on a site that was developed with a single family home/use.

February 6, 2015: The applicant submitted a letter to staff requesting that the Board waive the two year limitation on the request for a special exception to the fence height regulations denied with prejudice by Board of Adjustment Panel B on May 21, 2014 (see Attachment A). This miscellaneous item request to waive the two year limitation was

made in order for the applicant to file a new application for a fence height special exception on the property.

Note that The Dallas Development Code states the following with regard to board action:

- Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
- If the board renders a final decision of denial without prejudice, the two year limitation is waived.
- The applicant may apply for a waiver of the two year limitation in the following manner:
 - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
 - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.

February 6, 2015: The Board Administrator emailed the applicant information regarding his miscellaneous item request (see Attachment B).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 18, 2015

APPEARING IN FAVOR: Santos Martinez, 900 Jackson Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment grant the request to waive the two year limitation on a final decision reached by Board of Adjustment Panel B on May 21, 2014 - a request for a special exception to the fence height regulations that was denied with prejudice.

SECONDED: **Leone**

AYES: 2 – Leone, Counsel

NAYS: 3 – Reynolds, Gillespie, Agnich

MOTION FAILED: 2– 3

***Since the motion to grant did not get four concurring votes, the motion failed and is therefore deemed denied.**

FILE NUMBER: BDA 145-015

BUILDING OFFICIAL'S REPORT: Application of Jonathan Robert, represented by Justin Jeffrey, for special exceptions to the visual obstruction regulations at 5201 Goodwin Avenue. This property is more fully described as Lot 16, Block 1/2188, and is zoned CD-15, which requires a 20 foot visibility triangle at driveway approaches and at alleys intersecting with a street. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 5201 Goodwin Avenue

APPLICANT: Jonathan Robert
Represented by Justin Jeffrey

REQUESTS:

Requests for special exceptions to the visual obstruction regulations are made to maintain an 8' high solid board-on-board cedar fence atop a retaining wall ranging from approximately 6" – 13" in height in the following locations on a site developed with a single family home:

1. in the two, 20' visibility triangles on either side of the driveway into the site from Homer Street; and
2. in the 20' visibility triangle at where the alley on the north side of the site meets Homer Street.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer has no objections to these requests.
- The applicant has substantiated how the location of the fence located in the 20' visibility triangles at the driveway into the site from Homer Street and at where the alley meets Homer Street does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	CD 15 (Conservation District)
<u>North:</u>	CD 15 (Conservation District)
<u>South:</u>	CD 15 (Conservation District)
<u>East:</u>	CD 15 (Conservation District)
<u>West:</u>	CD 15 (Conservation District)

Land Use:

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

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- These requests focus on maintaining a solid cedar board-on-board fence atop a retaining wall ranging from approximately 6” – 13” in height in the two, 20’ visibility triangles on either side of the driveway into the site from Homer Street; and in the 20’ visibility triangle at where the alley on the north side of the site meets Homer Street on a site developed with a single family home.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation have been submitted indicating portions of a fence located in the two 20’ visibility triangles on either side of the driveway into the site from Homer Street and in the 20’ visibility triangle at where the alley on the north side of the site meets Homer Street.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of an 8’ high solid board-on-board cedar fence located in the two 20’ visibility triangles at the driveway into the site from Homer Street and in the 20’ visibility triangle at where the alley on the north side of the site meets Homer Street does not constitute a traffic hazard.

- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20' drive approach visibility triangles into the site from Homer Street and in the 20' visibility triangle at where the alley on the north side of the site meets Homer Street to that what is shown on these documents – an 8' high solid board-on-board cedar fence.

Timeline:

December 3, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

January 14, 2015: The Board Administrator contacted the applicant and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 28th deadline to submit additional evidence for staff to factor into their analysis; and the February 6th 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.”

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

February 6, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

BOARD OF ADJUSTMENT ACTION: FEBRUARY 18, 2015

APPEARING IN FAVOR: Justin Jeffery, 5106 Goodwin, Dallas, TX
Joe Hargett, 5201 Goodwin, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment, in request No. **BDA 145-015**, on application of Jonathan Robert, represented by Justin Jeffrey, **grant** the request to maintain items in the visibility triangles as a special exception to the visual obstruction regulations in the Dallas Development Code, 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Housel, Agnich

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 145-016

BUILDING OFFICIAL’S REPORT: Application of Omid Rohani for a special exception to the fence height regulations at 7010 Winding Creek Road. This property is more fully described as Lot 1, Block H/8727, and is zoned PD-106, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 6 foot 6 inch high fence, which will require a 2 foot 6 inch special exception to the fence height regulations

LOCATION: 7010 Winding Creek Road

APPLICANT: Omid Rohani

REQUEST:

A request for a special exception to the fence height regulations of 2’ 6” is made to maintain a 6’ 6” high solid combination concrete/wood (4’ 6’ solid wood atop 2’ concrete base) fence with 6’ 6” high concrete columns on a site developed with a single family home located in the one of its three 30’ front yard setbacks (Windrock Road).

(No request has been made in this application to construct/maintain any fence in the site’s Levelland Drive or Winding Creek Road front yard setback).

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: PD 106 (Planned Development)
North: TH-2(A) (Townhouse)
South: PD 106 (Planned Development)
East: PD 106 (Planned Development)
West: PD 106 (Planned Development)

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.

Zoning/BDA History:

1. BDA 989-153, Property located at 7010 Winding Road (the subject site)

On February 16, 1999, the Board of Adjustment Panel B took the following actions: 1) granted a request for a special exception to the fence height regulations to maintain a 6' 6" fence and imposed the following condition: compliance with the submitted site plan/elevation as it relates to the fence only and a landscape plan to be submitted to the board administrator indicating a Tam Juniper or similar species continuous hedge along the fence wall on Windrock between the fence and the pavement line; 2) delayed action on variances to the front yard setback regulations until March 16, 1999. The case report stated requests were made to provide a 16 foot front yard setback facing Windrock Road which would require a variance to the front yard setback regulations of 14 feet; to provide a 20 front yard setback facing Winding Creek Road which would require a variance to the front yard setback regulations of 10 feet; and to erect a 6' 6" high fence in

the Windrock Road front yard setback (a 6' high fence – 4' high open pickets atop a 2' solid base with 6.5' high columns). On March 16, 1996, the Board of Adjustment Panel B granted a request for a variance to the front yard setback regulations along Winding Creek and imposed a condition that a revised site plan must be provided to the Board of Adjustment showing the variance granted by the Board; and denied the variance to the front yard setback regulations along Windrock Road without prejudice.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on maintaining a 6' 6" high solid combination concrete/wood (4' 6" solid wood atop 2' concrete base) fence with 6' 6" high concrete columns on a site developed with a single family home in one of its three 30' front yard setbacks (Windrock Road).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located on the east side of Levelland Drive between Winding Creek Road and Windrock Road. The subject site has three front yards. The subject site has a front yard setback along Levelland Road because it is the shortest of the three street frontages. Additionally the subject site is a lot that runs from one street to another (Winding Creek Road on the north, Windrock Road on the south). Regardless of how the existing single-family structure is oriented to front northward towards Winding Creek Road, the site has front yard setbacks on both of these streets since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both of these streets.
- Although the site has three 30' front yard setbacks, the focus of the applicant's request in this application is only to maintain a fence higher than 4' in the site's front yard setback on Windrock Road. No part of the application is made to address any fence in the site's Levelland Road or Windrock Road front yard setbacks.
- The applicant has submitted a site plan and elevation of the proposal in the Windrock Road front yard setback with notations indicating that the proposal/existing fence/columns reaches a maximum height of 6' 6".
- The following additional information was gleaned from the submitted site plan:
 - The proposal/existing fence in Windrock Road front yard setback is represented as being approximately 180' in length parallel to the street; and approximately 30' in length perpendicular to the street on the lot's west side.
 - The proposal/existing fence is represented as being located approximately on the Windrock Road front property line.
- The proposal/existing fence is located on the north side of Windrock Road where two houses front it, neither with fences in their front yard setbacks.

- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be in a front yard setback higher than 4' in height.
- As of February 9, 2015, 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 2' 6" will not adversely affect neighboring property.
- Granting this special exception of 2' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

Timeline:

December 5, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 14, 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."

January 14, 2015: The Board Administrator contacted the applicant and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 28th deadline to submit additional evidence for staff to factor into their analysis; and the February 6th 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."

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, 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: FEBRUARY 18, 2015

APPEARING IN FAVOR: Dillom Rohani, 7010 Winding Creek Rd., Dallas, TX
Morteza Nughavi, 7015 Winding Creek Rd., Dallas, TX

APPEARING IN OPPOSITION: Vijai Jain, 6606 Windrock Road, Dallas, TX

MOTION: Leone

I move that the Board of Adjustment, in request No. **BDA 145-016**, on application of Omid Rohani, **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: Agnich

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 145-020

BUILDING OFFICIAL’S REPORT: Application of E. Lee Roth for a special exception to the landscape regulations at 2614 Boll Street. This property is more fully described as Lot 3, Block 2/955, and is zoned PD193 (LC) (H/116), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations

LOCATION: 2614 Boll Street

APPLICANT: E. Lee Roth

Feburary 18, 2015 Public Hearing Notes:

- The applicant submitted additional written materials to the Board at the public hearing.

REQUEST:

A request for a special exception to the landscape regulations is made to maintain a restaurant use/structure (The Ahab Bowen House) on a site, and not fully provide required landscaping.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS
IN OAK LAWN:**

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request because the applicant has reasonably demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements for LC districts.
- In this case, the Chief Arborist notes among other things how the areas in which the applicant cannot fully meet the landscape requirements (location and width of sidewalks, and location and number of street trees) are justified given the applicant's intention to preserve existing large canopy trees on the site, and are compensated to some degree by the applicant providing more than the required screening needed for parking spaces, and meeting requirements for landscape site area.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (H/116)(Planned Development District, Light commercial, historic)
North: PD 193 (LC)(Planned Development District, Light commercial)
South: PD 193 (LC)(Planned Development District, Light commercial)
East: PD 193 (LC)(Planned Development District, Light commercial)
West: PD 193 (GR)(Planned Development District, General retail)

Land Use:

The subject site is developed with an existing vacant structure that is a City of Dallas designated historic site (The Ahab Bowen House). The areas to the north, east, and south are developed with mixed uses; and the area to the west is developed with a surface parking lot.

Zoning/BDA History:

1. BDA 123-090, Property located at 2614 Boll Street (the subject site)

On September 18, 2013, the Board of Adjustment Panel B granted a request for a special exception to the landscape regulations and imposed the alternate landscape plan that was submitted at the September 18th public hearing as a condition to the request. The case report stated the request was made in conjunction with increasing nonpermeable coverage of the lot developed with an existing approximately 1,800 square foot structure (The Ahab Bowen House), and not fully complying with the landscaping requirements of PD 193.

2. BDA 123-028, Property at 2701 McKinney Avenue (the property immediately east of the subject site)

On April 16, 2013, the Board of Adjustment Panel A: 1) granted requests for variances to the front yard setback regulations to maintain an existing nonconforming structure and to construct/maintain an addition in the Boll Street front yard setback imposing the submitted site plan as a condition to these requests; 2) granted a request for a special exception to the landscape regulations, imposing the revised alternate landscape plan as conditions to this request; 3) denied a request for a variance to the front yard setback regulations to maintain an existing nonconforming structure in the McKinney Avenue front yard setback with prejudice; and 4) denied a request for a variance to the off-street parking regulations of 13 spaces without prejudice.

The case report stated that the following appeals were made on a site that is currently developed with a restaurant use (S & D Oyster House): a variance to the front yard setback regulations of 10' was made in conjunction with constructing and maintaining an addition structure (freezer/cooler room and stairwell) with an approximately 1,900 square foot building footprint, part of which is to be located in on the Boll Street front property line, or as much as 10' into this 10' front yard setback along Boll Street; variances to the front yard setback

regulations of 10' were made in conjunction with remedying/addressing the nonconforming aspect of the existing nonconforming structure that is located in the site's two 10' front yard setbacks along McKinney Avenue and Boll Street; a variance to the off-street parking regulations of 13 spaces (or a 24 percent reduction of the 54 off-street parking spaces that are required) was requested in conjunction with constructing and maintaining existing/proposed development with a total of approximately 5,400 square feet of restaurant use where the applicant proposes to provide 41 (or 76 percent) of the required 54 required off-street parking; and a special exception to the PD 193 landscape regulations was made in conjunction with the proposed new construction, and not fully complying with the landscaping requirements of PD 193.

GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on maintaining a retail use/structure, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the proposed alternate landscape plan does not comply with sidewalk requirements related to location and width and tree requirements related to location and number.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by renovation of structure with increase of nonpermeable coverage on the lot.
- The Chief Arborist's memo lists the following factors for consideration:
 - The existing sidewalk conditions and location today were approved by the Board action in 2013. A portion of the sidewalk on Howland Street was allowed to be reduced to help with the protection of existing trees on the property. The proposed plan includes a brick wall along Boll Street.
 - The street tree parkway conditions were exempted in favor of the retention of existing large canopy trees on the street sides of the property.

- The property is additionally regulated under a historic district and is subject to review by the Landmark Commission for the preservation of the structure and property. Conditions are protected and “landscaping must be appropriate, enhance the structure and surroundings, and not obscure significant views of protected facades.” This may be relevant to this panel in determining their opinion of the placement of street trees and location of sidewalks in proximity to existing trees.
- The proposed plan shows more than the required screening needed for the parking spaces, and the garbage dumpster is shown to be removed from the property and located in an area shared with the adjacent property. The parking lot is to be fully screened.
- The front yard on the property is to be established with a flagstone patio surfaces and plantings adjacent to an enhanced paved sidewalk. The patio court is designed to surround an existing mature catalpa tree that was previously in an open yard. It is likely the large tree will retain its ability to be a significant landscape feature for an extended period.
- The proposed plan meets requirements for landscape site areas and screening of surface parking.
- The City of Dallas Chief Arborist recommends approval of this request because the applicant has demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the sidewalk and tree requirements) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards”.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to sidewalk and tree requirements of the Oak Lawn PD 193 landscape ordinance.

Timeline:

December 19, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 14, 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.”

January 14, 2015: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 28th deadline to submit additional evidence for staff to factor into their analysis; and the February 6th 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 29, 2015: The Sustainable Development and Construction Historic Preservation Senior Planner emailed the Board Administrator the following comment: "2614 Boll Street- Ahab Bowen Historic Overlay- proposed landscaping has been approved with conditions by Landmark Commission."

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

February 6, 2015: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 18, 2015

APPEARING IN FAVOR: Lee Roth, 7518 Baxtershire, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Gillespie

I move that the Board of Adjustment in request No. **BDA 145-020** suspend the rules and accept the evidence that is being presented to us today.

SECONDED: Agnich

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0

MOTION PASSED: 5– 0 (unanimously)

MOTION #2: Gillespie

I move that the Board of Adjustment, in request No. **BDA 145-020**, on application of E Lee Roth, **grant** the request to provide an alternate landscape plan as a special exception to the landscape regulations in PD193(LC) code because our evaluation of the property and the testimony shows that the special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following condition be imposed to further the purpose and intent of the Oak Lawn Ordinance:

- Compliance with the submitted alternate landscape plan is required.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0

MOTION PASSED: 5– 0(unanimously)

FILE NUMBER: BDA 145-013

BUILDING OFFICIAL’S REPORT: Application of Nancy Craft Neary, represented by David C. Schulte of Thompson and Knight, LLP, for a special exception to the visual obstruction regulations at 7108 Hunters Ridge Drive. This property is more fully described as Lot 27, Block V/8188, and is zoned R-10(A), which requires a 45 foot visibility triangle at street intersections. The applicant proposes to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 7108 Hunters Ridge Drive

APPLICANT: Nancy Craft Neary
Represented by David C. Schulte of Thompson and Knight, LLP

Feburary 18, 2015 Public Hearing Notes:

- The applicant submitted additional written materials to the Board at the public hearing.

REQUEST:

A request for a special exception to the visual obstruction regulations is made to maintain a portion of a 6’ high Burford Holly hedge in the 45’ visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road on a site developed with a single family home use. (Note two existing trees and part of the existing hedge in this visibility triangle are located in the public right-of-way, and therefore are not part of this special exception request).

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommended that this application be denied commenting that “existing landscape conditions create a hazardous intersection based on national (American Association of State Highway and Transportation Officials) and City of Dallas Design Guidelines and Standards.”
- At the time of the February 3rd staff review team meeting, the applicant had not substantiated how maintaining a portion of a 6’ high Burford Holly hedge in the 45’ visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single family district 10,000 square feet)
North: R-10(A) (Single family district 10,000 square feet)
South: R-10(A) (Single family district 10,000 square feet)
East: R-10(A) (Single family district 10,000 square feet)
West: R-10(A) (Single family district 10,000 square feet)

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.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on maintaining a portion of a 6’ high Burford Holly hedge in the 45’ visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road on a site developed with a single family home use. (Note two existing trees and part of the hedge in this visibility triangle are located in the public right-of-way and therefore are not part of this special exception request).
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A revised site plan and revised partial site plan/elevations/sections document have been submitted indicating portions of a 6' high Burford Holly hedge in the 45' visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road. While the revised site plan also denotes part of the hedge and Live Oak trees in the 45' visibility triangle, these items located in the public right-of-way are not part of application made to the Board.
 - The Sustainable Development and Construction Department Project Engineer recommended that this application be denied commenting that "existing landscape conditions create a hazardous intersection based on national (American Association of State Highway and Transportation Officials) and City of Dallas Design Guidelines and Standards."
 - The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to maintain portions of a 6' high Burford Holly hedge in the 45' visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road does not constitute a traffic hazard.
 - Granting this request with a condition imposed that the applicant complies with the submitted revised site plan and revised partial site plan/elevations/section document would require the items (a 6' high Burford Holly hedge in the 45' visibility triangle at the intersection of Hunters Ridge Drive and Hillcrest Road and on the applicant's property) to be limited to and maintained in the locations, heights, and materials as shown on these documents.

Timeline:

November 5, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant's representative and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 requests;
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence;"

- the name and contact information of the Senior Engineer or Assistant Director if he has any questions as to some of what was spoken about - that is, what appears from the submitted site plan to be certain items on this property located in the 45 foot visibility triangle at the Hillcrest Road/Hunters Ridge Drive intersection *and* in public right-of-way,.

January 6, 2015: The Board Administrator acknowledged the request of the applicant's representative and postponed this application from Panel B's January 21st public hearing to Panel B's February 18th public hearing.

January 14, 2015: The Board Administrator contacted the applicant's representative and emailed him the following information an attachment that provided the public hearing date and panel that will consider the application; the January 28th deadline to submit additional evidence for staff to factor into their analysis; and the February 6th deadline to submit additional evidence to be incorporated into the Board's docket materials.

January 30, 2015: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

February 6, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request marked "Recommends that this be denied" commenting "existing landscape conditions create a hazardous intersection based on national (American Association of State Highway and Transportation Officials) and City of Dallas Design Guidelines and Standards."

February 6, 2015: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B). (Note that this information was submitted after the Sustainable Development and Construction Department Project Engineer had submitted his recommendation for denial).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 18, 2015

APPEARING IN FAVOR: David Schulte, 1722 Routh Street, Dallas, TX
Chandra Murnganandham, 400 S. Houston St., Dallas,

APPEARING IN OPPOSITION: No one

MOTION #1: Hounsel

I move that the Board of Adjustment in request No. **BDA 145-013** suspend the rules and accept the evidence that is being presented to us today.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0

MOTION PASSED: 5– 0 (unanimously)

MOTION #2: Agnich

I move that the Board of Adjustment, in request No. **BDA 145-013**, on application of Nancy Craft Neary, Represented David C Shulte, **grant** the request to maintain items in the visibility triangle as a special exception to the visual obstruction regulations in the Dallas Development Code, 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan and revised partial site plan with elevations is required.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0(unanimously)

MOTION: Hounsel

I move to adjourn this meeting.

SECONDED Gillespie

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

2:47 P.M. Board Meeting adjourned for **February 18, 2015**

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.