

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, APRIL 18, 2017**

MEMBERS PRESENT AT BRIEFING: Peter Schulte, vice-chair, Elizabeth Nelson, regular member, Renee Dutia, regular member, Lorlee Bartos, alternate member and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: Michael Gibson, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, Lloyd Denman, Engineering Asst. Director, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Peter Schulte, vice-chair, Elizabeth Nelson, regular member, Renee Dutia, regular member, Lorlee Bartos, alternate member and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: Michael Gibson, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, Lloyd Denman, Engineering Asst. Director, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

11:09 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 18, 2017** docket.

1:02 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 March 21, 2017 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA167-041(SL)

BUILDING OFFICIAL'S REPORT: Application of Leticia Chao Little, represented by Bruce Baughman, for special exceptions to the fence standard at 10322 Lennox Lane. This property is more fully described as Lot 4, Block D/5532, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires that a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and maintain a 5 foot high fence in a required front yard, which will require a 1 foot special exception to the fence standards, and to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 10322 Lennox Lane

APPLICANT: Leticia Chao Little
 Represented by Bruce Baughman

REQUESTS:

The following requests for special exceptions to the fence standards have been made on a site that is being developed with a single family home:

- 1) A special exception related to fence height of 1' is made to construct and maintain a fence higher than 4' in height in the front yard setback (a 5' high solid CMU fence parallel to the street, and a 4' 9" high steel tube/wrought iron fence with 5' high columns perpendicular to the street); and
- 2) A special exception related to fence materials is made to construct and maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned 5' high solid CMU fence) located on the front lot line (or less than 5' from this front lot line).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

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, and west are developed with single family uses, and the property to the south is undeveloped.

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:

- The requests for special exceptions to the fence standards focus on constructing and maintaining: 1) a 5' high solid CMU fence parallel to the street, and a 4' 9" high steel tube/wrought iron fence with 5' high columns perpendicular to the street and in the front yard setback, and 2) constructing and maintaining the aforementioned 5' high solid CMU fence on the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-1ac(A).
- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - 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 applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 5'.

- The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height is represented as being approximately 135' in length parallel to the street, and approximately 40' in length perpendicular to the street on the north and south sides of the site in the front yard setback.
 - The fence and gate proposal is represented as being located approximately on the front property line or approximately 20' from the pavement line.
- Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:
 - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line.
 - With regard to the special exception to the fence standards pertaining to the location and materials of the proposed fence, the applicant has submitted a site plan and elevation of the fence with fence panels with surface areas that are less than 50 percent open (a 5' high solid CMU fence) located approximately on the front lot line (or less than 5' from this front lot line).
 - The following additional information was gleaned from the submitted site plan:
 - The fence with fence panels having a surface area less than 50 percent open being located less than 5' from the front lot line is a 5' high solid CMU fence approximately 135' in length on this front lot line.
- One single family lot with no fence fronts the proposed fence on the subject site.
- The Board Administrator conducted a field visit of the site and surrounding area approximately 300' north and south and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of April 7, 2017, 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 exceptions to the fence standards related to height over 4' in the front yard setbacks and materials/height/location of the proposed fence will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

- January 31, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

- March 15, 2017: The Board Administrator emailed the following information to the applicant's representative:
- 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 March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th 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."

April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: Bruce Baughman, 6606 Mapleshade Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Dutia

I move that the Board of Adjustment, in Appeal No. **BDA 167-041**, on application of Leticia Chao Little, represented by Bruce Baughman, **grant** the request of this applicant to construct and/or maintain a five-foot high fence as a special exception to the height requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Agnich

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Schulte

I move that the Board of Adjustment, in Appeal No. **BDA 167-041**, on application of Leticia Chao Little, represented by Bruce Baughman, **grant** the request of this applicant to complete and maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Dutia

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-043(SL)

BUILDING OFFICIAL’S REPORT: Application of Woody Hickman for a special exception to the fence standards at 8108 Inwood Road. This property is more fully described as Lot 20, Block 5674, and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards.

LOCATION: 8108 Inwood Road

APPLICANT: Woody Hickman

REQUEST:

A request for a special exception to the fence standards related to fence height of 4’ is made to construct and maintain a fence higher than 4’ in the front yard setback (a 7’ high wrought iron fence with 8’ high stucco columns, and two, 8’ high arched wrought iron gates flanked by a 7’ high combination open wrought iron atop stucco base wing walls) on a site that is being developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single family district 16,000)
North: R-16(A) (Single family district 16,000)
South: R-16(A) (Single family district 16,000)
East: R-16(A) (Single family district 16,000)
West: R-16(A) (Single family district 16,000)

Land Use:

The subject site is being 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 145-060, Property at 8216 Inwood Road (two lots north of the subject site) On May 20, 2015, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 2' 6" with prejudice. The case report stated that the request was made to construct and maintain a 6' high open iron fence and gate with 6' 6" high stucco columns in the 35' front yard setback on a site that is developed with a single family home/use.
2. BDA 134-049, Property at 8216 Inwood Road (two lots north of the subject site) On May 21, 2014, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 2' 6" with prejudice. The case report stated that the request was made to construct and maintain a 6' high open iron fence and gate with 6' 6" high stucco columns in the 35' front yard setback on a site that is developed with a single family home/use.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception to the fence standards related to fence height of 4' focuses on constructing and maintaining a 7' high wrought iron fence with 8' high stucco columns, and two, 8' high arched wrought iron gates flanked by a 7' high combination open wrought iron atop stucco base wing walls on a site that is being developed with a single family home.
- The subject site is zoned R-16(A) which requires a 35' front yard setback.
- 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 applicant has submitted a site plan/elevation of the proposal with notations indicating that the proposal reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height in the front yard setback is represented as being approximately 140' in length parallel to the street, and an approximately 31' in length perpendicular to the street on the north and south sides of the site in the 35' front yard setback.
 - The fence proposal is represented as being located approximately 4' from the front property line or approximately 15' from the pavement line; the gate proposal is represented as being located approximately 12' from the front property line or approximately 23' from the pavement line.
- One single family lot fronts the proposed fence. This lot has an approximately 10' high open wrought iron fence parallel to Inwood Road that appears to be located at or out of the 35' front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 300' north and south of the subject site) and noted no fences above 4 feet high which appeared to be located in a front yard setback.
- As of April 7, 2017, no letters had 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 standards related to fence height of 4' will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be constructed and maintained in the location and of the heights and materials as shown on this document.

Timeline:

- June 6, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

- March 15, 2017: 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 March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th 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.

April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Bartos**

I move to grant that the Board of Adjustment grant application **BDA 167-043(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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: **Agnich**

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-045(SL)

BUILDING OFFICIAL’S REPORT: Application of James E. Manning for a variance to the building height regulations at 6727 Sunnyland Lane. This property is more fully described as Lot 11A, Block 8/2976, and is zoned R-7.5(A), which limits the maximum building height to 30 feet. The applicant proposes to construct and maintain a structure with a building height of 34 feet, which will require a 4 foot variance to the maximum building height regulations.

LOCATION: 6727 Sunnyland Lane

APPLICANT: James E. Manning

REQUEST:

A request for a variance to the height regulations of 4’ is made to construct and maintain a three-level single family home structure which is proposed to exceed the 30’ maximum structure height on the subject site that is currently under development.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is of a restrictive area and sloped. According to the applicant, the site only has approximately 3,600 square feet of “buildable area” once the floodway

easement/slope is accounted for. The slope of the subject site appears to be the overriding factor that makes the proposed single family home exceed the 30' maximum building height by 4'.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: R-7.5(A) (Single family residential 7,500 square feet)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA156-065, Property at 6730 Sunnyland Lane (the lot south of subject site) On August 15, 2016, the Board of Adjustment Panel C denied a request for a variance to front yard setback regulations of 15' without prejudice. The case report stated that the request was made to replace an existing one-story single family home structure with a two-story, single family home structure with approximately 5,800 square feet of a/c space, part of which was to be located 10' from the site's front property line or 15' into the 25' front yard setback.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a variance to the maximum structure height of 4' focuses on constructing and maintaining a three-level single family home structure with approximately 4,700 square feet of "conditioned" building area which at its highest point reaches 34', and exceeds the 30' maximum structure height on the R-7.5(A) zoned subject site by 4'.
- The maximum structure height on properties zoned R-7.5(A) is 30'.
- The Dallas Development Code provides the following definition for "height": "Height means the vertical distance measured from grade to: (A) for a structure with a gable, hip, or gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure; (B) for a structure

with a dome, the midpoint of the vertical dimension of the dome; and (C) for any other structure, the highest point of the structure”.

- The Dallas Development Code provides the following definition for “grade”: “Grade means the average of the finished ground surface elevations measured at the highest and lowest exterior corners of a structure. For purposes of this definition, finished ground surface elevation means the ground surface elevation of a building site before any construction or ground surface elevation as altered in accordance with grading plans approved by the building official. Finished ground surface elevation does not include: (A) fill material not necessary to make the site developable; (B) berms; or (C) landscape features”.
- The Dallas Development Code provides the following definition for “structure”: “Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner”.
- The application states that a variance of 4’ to the maximum 30’ allowed height is requested. Section documents have been submitted one that denote the lowest height to be 505’ flood plain elevation and the highest height to be 129’ 7”; and another that denotes the lowest height to be 96’ and the highest height to be 129’ 7”.
- The applicant has submitted section/elevation documents that represent the portion of the proposed home that exceeds the maximum 30’ building height.
- The applicant has stated that only approximately 3,600 square feet of the approximately 18,000 square foot lot is “buildable area” once the floodway easement is accounted for.
- The applicant has provided a table of 5 other properties adjacent to the site where the average building square feet is 4,876 square feet. The applicant has submitted a plan referencing “total building area” a 4,720 sq. ft. conditioned”.
- The applicant has submitted a contour map showing a grade change of approximately 24’ from 513’ downward to 489’ over an approximately 110’ of length of the site.
- According to DCAD records, there is “no main improvement” or “no additional improvements” for property addressed at 6727 Sunnyland Lane.
- The sloped subject site is irregular in shape, and according to the submitted application is 0.418 acres (or approximately 18,000 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5 (A) zoning classification.

- If the Board were to grant the height variance request of 4', and impose the submitted site plan and elevations as a condition, the building footprint and height of the structure on the site would be limited to what is shown on these documents.

Timeline:

February 9, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 15, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

May 13, 2016: The Board Administrator emailed the applicant 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 June 8th deadline to submit additional evidence for staff to factor into their analysis; and the 1 p.m., June 17th 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."

March 30 & 31, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A and B).

April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Bartos**

I move to grant that the Board of Adjustment grant application **BDA 167-045(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Agnich**

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-046(SL)

BUILDING OFFICIAL’S REPORT: Application of Felipe Villatoro for special exceptions to the fence standards at 3115 Borger Street. This property is more fully described as Lot 4A, Block 4/7108, and is zoned R-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 7 foot high fence in required front yards, which will require 3 foot special exceptions to the fence standards.

LOCATION: 3115 Borger Street

APPLICANT: Felipe Villatoro

REQUESTS:

Requests for special exceptions to the fence standards related to fence height of 3’ are made, according to the application, to maintain a fence higher than 4’ in the 20’ Borger Street, Pueblo Street, and Chicago Street front yard setbacks (a 7’ high wrought iron fence and two, 7’ high wrought iron sliding gates) on a site that is developed with a church (Iglesia Apostoles).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district 5,000 square feet)
North: R-5(A) (Single family district 5,000 square feet)
South: R-5(A) (Single family district 5,000 square feet)
East: R-5(A) (Single family district 5,000 square feet)
West: R-5(A) (Single family district 5,000 square feet)

Land Use:

The subject site is developed with a church (Iglesia Apostoles). The areas to the north, south, east are developed with single family uses; and the area to the west is undeveloped.

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:

- The requests for special exceptions to the fence standards related to fence height of 3' focus on, according to the application, maintaining an existing 7' high wrought iron fence/sliding gates in the 20' Borger Street, Pueblo Street, and Chicago Street front yard setbacks (a 7' high wrought iron fence) on a site that is developed with a church (Iglesia Apostoles)
- The subject site is zoned R-5(A) which requires a 20' front yard setback.
- 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 site is bounded on three streets (Borger Street, Pueblo Street, and Chicago Street).
- Given the R-5(A) single family zoning and location of the subject site, it has three 20' front yard setbacks – a front yard setback along Pueblo Street (the shortest of the three frontages of the subject site which is always a front yard in this case) and front yard setbacks along Chicago Street and Borger Street, (the longer of the three frontages which is typically considered a side yard where on this R-5(A) zoned property where a 9' high fence could be erected by right). However the site has a front yard setback along Chicago Street and Borger Street in order to maintain

continuity of the established front yard setback along these street frontages where homes/lots to the south of the subject site “front” on these streets.

- The applicant has submitted a site plan and site plan/elevation of the proposal with notations indicating that the proposal reaches a maximum height of 7’.
- The following additional information was gleaned from the submitted site plan:
 - The proposal over 4’ in height in the front yard setbacks is represented as being approximately 140’ in length parallel to the Pueblo Street (and approximately 6’ from the pavement line), and approximately 150’ in length parallel to Chicago Street and Borger Street) and approximately 14’ and 18’ from the pavement lines, respectively).
- No single family lots front the fence on Pueblo Street and Chicago Street, and three single family lots front the fence on Borger Street.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one fence that appeared to be above 4’ in height and located in a front yard setback. This fence is located directly north of the subject site and is an approximately 6’ high open metal fence with no recorded Board of Adjustment history.
- As of April 7, 2017, no letters had been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to fence height of 3’ will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and site plan/elevation would require the proposal exceeding 4’ in height to be maintained and/or modified and maintained in the location and of the heights and materials as shown on these documents.
- Granting any or all of these fence standard special exception requests will provide no relief to any existing or proposed items that may be located in required visibility triangles.

Timeline:

October 13, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 15, 2017: 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 March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th 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.

April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Bartos**

I move to grant that the Board of Adjustment grant application **BDA 167-046(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Agnich**

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-049(SL)

BUILDING OFFICIAL’S REPORT: Application of Juan G Trejo for special exceptions to the fence standards and visual obstruction regulations at 8907 Sorrento Street. This property is more fully described as Lot 16, Block 1/7379, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. 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 standards, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 8907 Sorrento Street

APPLICANT: Juan G Trejo

REQUESTS:

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

1. A request for a special exception to the fence standards related to height of 2' 6" is made to maintain a fence (a 6' 6" high solid cedar board-on-board fence and sliding gate) higher than 4' in height in one of the site's two required front yards (Gross Road); and
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

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 (fence standards):

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

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who recommends that these requests be denied.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>South:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>East:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>West:</u>	R-7.5(A) (Single family district 7,500 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, south, east are developed with single family uses; and the area to the west is a school (George W. Truett Elementary School).

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 (fence standards):

- The request for a special exception to the fence standards related to height of 2' 6" focuses on maintaining a 6' 6" high solid cedar board-on-board fence and sliding gate in one of the site's two required front yards (Gross Road) on a site developed with a single family home.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- 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 site is located at the northwest corner of Sorrento Street and Gross Road.

- Given the single family zoning and location of the corner lot subject site, it has two required front yards. The site has a 30' required front yard caused by a platted building line along Sorrento Street (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 20' required front yard caused by a 20' platted building line along Gross Road, (the longer of the two frontages which is typically considered a side yard where on this R-7.5(A) zoned property a 9' high fence could be erected by right). However the site has a required front yard along Gross Road in order to maintain continuity of the established front yard setback along this street frontage where a lot to the west of the subject site (developed with an elementary school) "fronts" on Gross Road.
- The applicant has submitted a site plan and an elevation of the proposal/existing fence in the Gross Road required front yard indicating that the proposal reaches a maximum height of 6' 6". (The submitted site plan only denotes a fence higher than 4' in the Gross Road required front yard).
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 70' in length parallel to Gross Road and approximately 15' perpendicular to Gross Road on the east and west sides of the site in this front yard setback.
 - The proposal is represented as being located approximately 5' – 7' from Gross Street front property line or approximately 13' – 15' from the pavement line.
- Two single family lots front the existing fence, neither with fences in the front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area approximately 300 feet east and west of the site and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of April 7, 2017, no letters have been submitted in support of the request, and one letter has been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards 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/existing fence exceeding 4' in height in the Gross Street required front yard to be maintained in the location and of the heights and materials as shown on these documents.

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

- The requests for special exceptions to the visual obstruction regulations focus on maintaining portions of a 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and

- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan and an elevation representing a 6' 6" high solid board-on-board fence in two, 20' visibility triangles at the driveway into the site on Gross Road.
- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Visibility is especially important at this location due to the proximity of school children".
- 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 a 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

- February 21, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 15, 2017: 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 March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standards that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

April 7, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Visibility is especially important at this location due to the proximity of school children"

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: Juan Trejo, 8907 Sorrento St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Agnich**

I move that the Board of Adjustment in Appeal No. **BDA 167-049**, hold this matter under advisement until **August 15, 2017**.

SECONDED: **Schulte**

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: **Bartos**

I move to adjourn this meeting.

SECONDED:

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

1:36 P. M.: Board Meeting adjourned for **April 18, 2017**

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.