

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL L1FN AUDITORIUM
WEDNESDAY, APRIL 19, 2017**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Joe Carreon, regular member, Marla Biekman, regular member, and Matt Shouse, regular member

MEMBERS ABSENT FROM BRIEFING: Wini Cannon, regular member

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, Joe Carreon, regular member, Marla Biekman, regular member, Wini Cannon, regular member and Matt Shouse, regular member

MEMBERS ABSENT FROM HEARING: No one

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

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

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 19, 2017 docket.**

1:03 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 March 22, 2017, public hearing minutes.

BOARD OF ADJUSTMENT ACTION: APRIL 19, 2017

MOTION: None

The minutes were approved.

FILE NUMBER: BDA167-010(SL)

BUILDING OFFICIAL’S REPORT: Application of Paul S. Bhella for a special exception to the front yard setback regulations for a carport at 6866 Burwood Lane. This property is more fully described as Lot 10, Block C/2806, and is zoned R-10(A), which requires a front yard setback of 30 feet. The applicant proposes to construct and/or maintain a carport in a required front yard and provide a 1 foot setback, which will require a 29 foot special exception to the front yard setback regulations.

LOCATION: 6866 Burwood Lane

APPLICANT: Paul S. Bhella

REQUEST:

A request for a special exception to the front yard setback regulations of 29’ is made to maintain a carport, part of which is located in the site’s 30’ front yard setback on a site developed with a single family home structure/use.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE FRONT YARD:

The Board of Adjustment may grant a special exception to the minimum front yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board:

- (A) There is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
- (B) the carport will not have a detrimental impact on surrounding properties.

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

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the front yard setback regulations since the basis for this type of appeal is, when in the opinion of the board:

- (A) there is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
- (B) the carport will not have a detrimental impact on surrounding properties.

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 area 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:

- The request for a special exception to the front yard requirements of 29' focuses on maintaining a carport that is located 1' from the front property line or 29' into the 30' front yard setback on a site developed with a single-family home structure/use.
- A 30' front yard setback is required in the R-10(A) zoning district.
- The applicant has submitted four documents in conjunction with this request - a revised site plan and three elevations. The revised site plan denotes that the "metal carport" is located 1' from the site's front property line or 29' into the 30' front yard setback.
- The following information was gleaned from the submitted revised site plan:
 - The carport is represented to be approximately 20' in length and approximately 10' in width (approximately 200 square feet in total area) all of which is located in the front yard setback.

- The three submitted elevations do not represent a front property line or building materials.
- The submitted elevations denote an approximate height of the carport to be 11’.
- The submitted revised site plan denotes approximate 6’ widths between the side property lines and the existing single family structure.
- There is no paved alley behind the property.
- The Board Administrator noted what appeared to be a parking space in an attached garage located behind the 30’ front building line.
 - The Board Administrator conducted a field visit of 6800 block of Burwood Lane and noted no other carports that appeared to be located in a front yard setback.
 - As of April 7th, three letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing the following:
 - there is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
 - that granting this special exception to the front yard setback regulations of 29’ will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted revised site plan and elevations is required.
 2. The carport structure must remain open at all times.
 3. All applicable building permits must be obtained.
 4. No item (other than a motor vehicle) may be stored in the carport.

Timeline:

November 21, 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 B.

March 15, 2017: 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 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 3, 2017: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report on this application to the Board Administrator (see Attachment A).

April 3 & 5, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachments B and C).

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 19, 2017

APPEARING IN FAVOR: Gwen Bhella, 6866 Burwood Lane, Dallas, TX

APPEARING IN OPPOSITION: Eric Johnson, 6873 Burwood Lane, Dallas, TX

MOTION #1: Hounsel

I move to grant that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

SECONDED: Cannon

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5– 0 (unanimously)

MOTION #2: Carreon

I move that the Board of Adjustment, in Appeal No. **BDA 167-010**, on application of Paul S. Bhella, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property and there is adequate vehicular access to an area behind the required front building line that would accommodate a parking space.

SECONDED: Beikman

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA167-035(SL)

BUILDING OFFICIAL’S REPORT: Application of Jared Parks for special exceptions to the fence standards and visual obstruction regulations at 5919 Over Downs Drive. This property is more fully described as Lot 1, Block A/5508, and is zoned TH-1(A), which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct and maintain a 6 foot 4 inch high fence in a required front yard, which will require a 2 foot 4 inch special exception to the fence standards, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 5919 Over Downs Drive

APPLICANT: Jared Parks

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’ 4” is made to construct and maintain a fence higher than 4’ in height (an approximately 10’ long, 6’ high open iron picket fence with a 6’ 4” high stone column) in one of the site’s two required front yards (Over Downs Drive); and
2. A request for a special exception to the visual obstruction regulations is made to locate and maintain a portion of the aforementioned 6’ high open iron picket fence and column in the 45’ visibility triangle at the intersection of Preston Road and Over Downs Drive.

(Note that this application is immediately north of a property where the same applicant seeks similar special exceptions to the visual obstruction and fence standard regulations from the Board of Adjustment Panel B on April 19th: BDA167-044).

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 exception):

Approval, subject to the following condition:

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

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who has no objections to this request – that the 6’ high open iron picket fence with a 6’ 4” high stone column in the 45’ visibility triangle at the intersection of Preston Road and Over Downs Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

- Site: TH-1(A) (Townhouse)
- North: TH-1(A) (Townhouse)
- South: TH-1(A) (Townhouse)
- East: PD 55 (Planned Development)
- West: TH-1(A) (Townhouse)

Land Use:

The subject site is developed with a single family home. The areas to the east, south, and west are developed with single family uses; and the area to the west is developed with a private school (St. Marks School of Texas).

Zoning/BDA History:

1. BDA167-034, Property located at 5912 Orchid Lane (the property north of the subject site) On March 22, 2017, the Board of Adjustment Panel B granted requests for special exceptions to the fence standard and visual obstruction regulations made to construct and maintain a fence (a 6’ high open iron picket fence with a 6’ 4” high stone column) higher than 4’ in height in one of the site’s two required front yards (Preston Road), and locate and maintain a portion of the aforementioned open iron picket fence in the 45’ visibility triangle at the intersection of Preston Road and Orchid Lane.

2. BDA167-044, Property located at 5918 Over Downs Drive (the property south of the subject site)

On April 19, 2017, the Board of Adjustment Panel B will consider requests for special exceptions to the fence standard and visual obstruction regulations made to construct and maintain a fence (a 6' high open iron picket fence with a 6' 4" high stone column) higher than 4' in height in one of the site's two required front yards (Over Downs Drive), and locate and maintain a portion of the aforementioned open iron picket fence in the 45' visibility triangle at the intersection of Preston Road and Orchid Lane.

GENERAL FACTS/STAFF ANALYSIS (fence standards):

- The request for a special exception to the fence standards related to height of 2' 4" focuses on constructing and maintaining an approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in one of the site's two required front yards (Over Downs Drive) on a site developed with a single family home.
- The subject site is zoned TH-1(A) which requires a 0' front yard setback. While TH-1(A) requires a 0' front yard setback, the subject site has a 10' required front yard on Over Downs Drive because of a platted building line on this street.
- 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 Preston Road and Over Downs Drive.
- Given the single family zoning and location of the corner lot subject site, the site has two required front yards – a 10' required front yard along Over Downs Drive (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 10' required front yard along Preston Road. While Preston Road is the longer of the two frontages on the subject site which is typically considered a side yard where on this TH-1(A) zoned property a 9' high fence could be erected by right, the site has a required 10' required front yard along Preston Road because of a platted building line and in order to maintain continuity of the established front yard setback along this street frontage where a lot to the north of the subject site "fronts" on Preston Road.
- The applicant has submitted a site plan and an elevation of the proposal fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 6' 4" for a stone column.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 10' in length perpendicular to Over Downs Drive/parallel to the Preston Road.
 - The proposal is represented as being located approximately on the Over Downs Drive front property line or approximately 12' from the pavement line.
- One single family lot fronts the proposal. The lot fronting this proposal is seeking similar special exceptions to fence standard and visual obstruction regulations from Board of Adjustment Panel B on April 19th: BDA167-044.

- The Board Administrator conducted a field visit of the site and surrounding area 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 exception to the fence standards of 2' 4" will not adversely affect neighboring property.
- Granting this special exception of 2' 4" 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 required front yard to be constructed and maintained in the location and of the heights and materials as shown on these documents.

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

- The request for a special exception to the visual obstruction regulations focuses on locating and maintaining a portion of a proposed approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive.
- 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 an approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive.
- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the request for special exception to the visual obstruction regulations to locate and maintain portions of a proposed approximately 10' long, 6' high open iron picket fence with 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive does not constitute a traffic hazard.
- Granting this request with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangle to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

January 27, 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 B.
- 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.
- March 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- 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 Engineering submitted a review comment sheet marked "Has no objections".

BOARD OF ADJUSTMENT ACTION APRIL 19, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Cannon**

I move to grant that the Board of Adjustment grant application **BDA 167-035(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 elevation is required.

SECONDED: Beikman

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA167-044(SL)

BUILDING OFFICIAL’S REPORT: - Application of Jared Parks for special exceptions to the fence standards and visual obstruction regulations at 5918 Over Downs Drive. This property is more fully described as Lot 2, Block C/5508, and is zoned TH-1(A), which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct and maintain a 6 foot 4 inch high fence in a required front yard, which will require a 2 foot 4 inch special exception to the fence standards, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 5918 Over Downs Drive

APPLICANT: Jared Parks

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’ 4” is made to construct and maintain a fence (an approximately 10’ long, 6’ high open iron picket fence with a 6’ 4” high stone column) higher than 4’ in height in one of the site’s two required front yards (Over Downs Drive); and
2. A request for a special exception to the visual obstruction regulations is made to locate and maintain a portion of the aforementioned open iron picket fence and column in the 45’ visibility triangle at the intersection of Preston Road and Over Downs Drive.

(Note that this application is immediately south of a property where the same applicant seeks similar special exceptions to the visual obstruction and fence standard regulations from the Board of Adjustment Panel B on April 19th: BDA167-035).

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 exception):

Approval, subject to the following condition:

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

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who has no objections to this request – that the 6’ high open iron picket fence with a 6’ 4” high stone column in the 45’ visibility triangle at the intersection of Preston Road and Over Downs Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: TH-1(A) (Townhouse)
North: TH-1(A) (Townhouse)
South: TH-1(A) (Townhouse)
East: PD 55 (Planned Development)
West: TH-1(A) (Townhouse)

Land Use:

The subject site is developed with a single family home. The areas to the east and north are developed with single family uses the area to the west is developed with a private school (St. Marks School of Texas); and the area to the south is undeveloped.

Zoning/BDA History:

1. BDA167-035, Property located at 5919 Over Downs Drive (the property north of the subject site)

On April 19, 2017, the Board of Adjustment Panel B will consider requests for special exceptions to the fence standard and visual obstruction regulations made to construct and maintain a fence (a 6’ high open iron picket fence with a 6’ 4” high stone column) higher than 4’ in height in one of the site’s two required front yards (Over Downs Drive),

and locate and maintain a portion of the aforementioned open iron picket fence in the 45' visibility triangle at the intersection of Preston Road and Orchid Lane.

GENERAL FACTS/STAFF ANALYSIS (fence standards):

- The request for a special exception to the fence standards related to height of 2' 4" focuses on constructing and maintaining an approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in one of the site's two required front yards (Over Downs Drive) on a site developed with a single family home.
- The subject site is zoned TH-1(A) which requires a 0' front yard setback. While TH-1(A) requires a 0' front yard setback, the subject site has a 10' required front yard on Over Downs Drive because of a platted building line on this street.
- 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 southwest corner of Preston Road and Over Downs Drive.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards – a 10' required front yard along Over Downs Drive (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 0' front yard setback along Preston Road. While Preston Road is the longer of the two frontages on the subject site which is typically considered a side yard where on this TH-1(A) zoned property a 9' high fence could be erected by right, the site has a front yard setback along Preston Road in order to maintain continuity of the established front yard setback along this street frontage where a lot to the south of the subject site "fronts" on Preston Road.
- The applicant has submitted a site plan and an elevation of the proposal fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 6' 4" for a stone column.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 10' in length perpendicular to Over Downs Drive/parallel to the Preston Road.
 - The proposal is represented as being located approximately on the Over Downs Drive front property line or approximately 12' from the pavement line.
- One single family lot fronts the proposal. The lot fronting this proposal is seeking similar special exceptions to fence standard and visual obstruction regulations from Board of Adjustment Panel B on April 19th: BDA167-035.
- The Board Administrator conducted a field visit of the site and surrounding area 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 exception to the fence standards of 2' 4" will not adversely affect neighboring property.

- Granting this special exception of 2' 4" 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 required front yard to be constructed and maintained in the location and of the heights and materials as shown on these documents.

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

- The request for a special exception to the visual obstruction regulations focuses on locating and maintaining a portion of a proposed approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive.
- 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 an approximately 10' long, 6' high open iron picket fence with a 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive.
- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the request for special exception to the visual obstruction regulations to locate and maintain portions of a proposed approximately 10' long, 6' high open iron picket fence with 6' 4" high stone column in the 45' visibility triangle at the intersection of Preston Road and Over Downs Drive does not constitute a traffic hazard.
- Granting this request with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangle to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

January 27, 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 B.

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.

March 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

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 Engineering submitted a review comment sheet marked “Has no objections”.

BOARD OF ADJUSTMENT ACTION APRIL 19, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Cannon**

I move to grant that the Board of Adjustment grant application **BDA 167-044(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 elevation is required.

SECONDED: **Beikman**

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA167-050(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Anderes for a special exception to the fence standards at 5028 Lilac Lane. This property is more fully described as Lot 9, Block 2/5671, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence standards.

LOCATION: 5028 Lilac Lane

APPLICANT: Robert Anderes

REQUEST:

A request for a special exception to the fence standards related to height of 2' is made to construct and maintain a fence (a 6' high solid cedar slat fence) higher than 4' in height in one of the site's two front yard setbacks (Horseshoe Trail) on a site 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-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: 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, 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:

- The request for a special exception to the fence standards related to height of 2' focuses on constructing and maintaining a 6' high solid cedar slat fence in one of the site's two front yard setbacks (Horseshoe Trail) on a site being 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 southwest corner of Lilac Lane and Horseshoe Trail.
- Given the single family zoning and location of the corner lot subject site, it has two 25' front yard setbacks – a front yard setback along Horseshoe Trail (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Lilac Lane, (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 front yard setback along Lilac Lane in order to maintain continuity of the established front yard setback along this street frontage where lots to the west of the subject site "front" on Lilac Lane.
- The applicant has submitted a site plan and an elevation of the proposal fence in the Horseshoe Trail front yard setback with notations indicating that the proposal reaches a maximum height of 6'. (The submitted site plan only denotes a fence higher than 4' in the Horseshoe Trail front yard setback).
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 50' in length.
 - The proposal is represented as being located at ranges from approximately 6' – 10' from the Horseshoe Trail front property line or at ranges from approximately 20' – 24' from the Horseshoe Trail pavement line.
- Two single family lots front the proposal, neither with fences in the front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence that appeared to be above 4' in height and located in a front yard setback. The only noted fence is an approximately 6' high solid wood fence located directly north of the site with no recorded BDA history.
- As of April 7, 2017, a petition signed by 5 people has been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' 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 Horseshoe Trail front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

February 22, 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 B.

March 15, 2017: The Board Administrator emailed the applicant’s representative 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.

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

April 5, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

BOARD OF ADJUSTMENT ACTION APRIL 19, 2017

APPEARING IN FAVOR: Roxanne Anderes, 5028 Lilac Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment, in Appeal No. **BDA 167-050**, on application of Robert Anderes, **grant** the request of this applicant to construct and/or maintain a six-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: Cannon

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5– 0 (unanimously)

MOTION: Cannon

I move to adjourn this meeting.

SECONDED: Carreon

AYES: 5 – Hounsel, Carreon, Beikman, Cannon, Shouse

NAYS: 0

MOTION PASSED 5 – 0 (unanimously)

2:14 P.M. Board Meeting adjourned for **April 19, 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.