

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1 AUDITORIUM
MONDAY, SEPTEMBER 21, 2015**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Joe Carreon, regular member, Ross Coulter, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Joe Carreon, regular member, Ross Coulter, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM HEARING: No one

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

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

10:45 p.m. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 21, 2015** docket.

1:06 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

Approval of the Board of Adjustment Panel C August 24, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-071(SL)

BUILDING OFFICIAL'S REPORT: Application of Santos T. Martinez for special exceptions to the visual obstruction regulations at 2823 St. Louis Street. This property is more fully described as Lot 14, Block 11/193, and is zoned PD-269 (Tract A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 2823 St. Louis Street

APPLICANT: Santos T. Martinez

REQUESTS:

Requests for special exceptions to the visual obstruction regulations are made to maintain portions of a 9' high wood fence located in the two, 20' visibility triangles on either side of the driveway into the site from Malcom X Boulevard on a site developed with a bar use (Deep Ellum Brewing Company).

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The applicant had submitted a revised site plan/elevation that addressed the Sustainable Development and Construction Department Project Engineer’s original conditional support which was that a notation be made on the site plan stating that the Malcom X Boulevard driveway is for loading purposes only and that two convex mirrors be installed/maintained to aid in pedestrian visibility at this driveway.

BACKGROUND INFORMATION:

Zoning:

- Site: PD 269 (Planned Development)
- North: PD 269 (Planned Development)
- South: PD 269 (Planned Development)
- East: PD 269 (Planned Development)
- West: PD 269 (Planned Development)

Land Use:

The subject site is developed with a bar use (Deep Ellum Brewing Company). The areas to the north, east, and west are developed with a mix of nonresidential uses; and the area 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:

- These requests focus on maintaining portions of a 9’ high wood fence located in the two, 20’ visibility triangles on either side of the driveway into the site from Malcom X Boulevard on a site developed with a bar use (Deep Ellum Brewing Company)..
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and

- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan/elevation was submitted with the original application indicating portions of a fence located in the two 20' visibility triangles on either side of the driveway into the site from Malcom X Boulevard.
- On August 13, 2105, the Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met) commenting "Revise site plan to notate that driveway is for loading purposes only and show and label two convex mirrors to be installed and maintained to aid in pedestrian visibility at drive. Recommend subjecting approval to compliance with aforementioned site plan."
- A revised site plan/elevation was submitted that included the notes recommended by the Sustainable Development and Construction Department Project Engineer (see Attachment B).
- On September 11, 2105, the Sustainable Development and Construction Department Project Engineer submitted a revised review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 9' high wood fence located in the two, 20' visibility triangles on either side of the driveway into the site from Malcom X Boulevard does not constitute a traffic hazard.
- Granting these requests, with a condition imposed that the applicant complies with the submitted revised site plan/elevation, would limit the items located in the 20' drive approach visibility triangles into the site from Malcom X Boulevard to that what is shown on this document – a 9' high wood fence.

Timeline:

- April 24, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- June 19, 2015: 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 July 29th deadline to submit additional evidence for staff to factor into their analysis; and the August 14th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

July 29, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

August 11, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

August 13, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met) commenting “Revise site plan to notate that driveway is for loading purposes only and show and label two convex mirrors to be installed and maintained to aid in pedestrian visibility at drive. Recommend subjecting approval to compliance with aforementioned site plan.”

August 14, 2015: The Board Administrator contacted the applicant to inform him that because of a notification error, the application would be delayed from Panel C’s August 24th hearing to Panel C’s September 21st hearing.

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 10, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

September 11, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move to grant that the Board of Adjustment grant application **BDA 145-071** 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 revised site plan/elevation is required.

SECONDED: **Beikman**

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-080(SL)

BUILDING OFFICIAL’S REPORT: Application of Laura Fetrow for a special exception to the fence height regulations at 13925 Hillcrest Road. This property is more fully described as a 5.47 acre tract of land in Block 8177 and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence height regulations.

LOCATION: 13925 Hillcrest Road

APPLICANT: Laura Fetrow

September 21, 2015 Public Hearing Notes:

- The applicant submitted a revised site plan/elevation to the Board at the public hearing.

REQUEST:

A request for a special exception to the fence height regulations of 4’ is made to construct and maintain an 8’ high solid wood fence with two recessed entryways that include 8’ high stucco walls, 8’ high sliding metal gates with 9’ stone entry columns on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

- Site: R-1/2(A) (Single family district ½ acre)
- North: R-1/2(A) (Single family district ½ acre)
- South: R-1/2(A) (Single family district ½ acre)
- East: R-1/2(A) (Single family district ½ acre)
- West: R-1/2(A) (Single family district ½ acre)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a an 8' high solid wood fence with two recessed entryways that include 8' high stucco walls, 8' high sliding metal gates with 9' stone entry columns on a site developed with a single family home.
- 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 in the front yard setback indicating that it reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan/elevation:

- The proposal is represented as being approximately 200' in length parallel to the street and approximately 27' and 40' perpendicular to the street on the south and north sides of the site, respectively, in the front yard setback.
 - The fence proposal is represented to be located approximately 0 – 4' from the front property line or about 11' - 15' from the pavement line.
 - The recessed entryways are represented to be located approximately 12' – 14' from the front property line or about 21' – 23' from the pavement line.
 - Of the approximately 200' length of the property, approximately 34' of its length is two metal gates, approximately 44' of length is solid stucco material with the remaining approximately 122' being solid wood.
- The proposal is located on the site where two lots have direct frontage to it, neither of which have fences in their front yards over 4' in height.
 - The Board Administrator conducted a field visit of the site and surrounding area along Hillcrest Road (approximately 400' north and south) and noted one other fence above 4 feet high which appeared to be located in a front yard setback – this being an approximately 9' high fence immediately north of the subject site with no recorded board of adjustment history.
 - As of September 11, 2015, no 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 that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
 - Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be construct and maintained in the location and of the heights and materials as shown on this document.
 - Note that if the Board were to grant the applicant's request for a special exception to the fence height regulations, and impose the submitted site plan/elevation as a condition, no additional relief would be provided to the applicant regarding any existing/proposed noncompliance on the subject site to any code provision including but not limited to flood plain regulations.

Timeline:

- April 30, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- June 19, 2015: 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 July 29th deadline to submit additional evidence for staff to factor into their analysis; and the

August 14th deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

August 11, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

August 12, 2015: The Board Administrator contacted the applicant regarding a concern that was brought up about the application by staff at the August 11th staff review team meeting – a concern is about whether the area in which the proposed solid fence on the property was to be located in the flood plain. The Board Administrator advised the applicant to contact the City of Dallas Sustainable Development Project Engineers, and that the application to the board of adjustment for a special exception to the fence height regulations will not provide any relief to the City of Dallas flood plain regulations.

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

August 14, 2015: The Board Administrator contacted the applicant to inform her that because of a notification error, the application would be delayed from Panel C's August 24th hearing to Panel C's September 21st hearing.

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: Laura Fetrow, 6406 Desco Dr., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-080**, on application of Laura Fetrow, **grant** the request to construct and maintain an 8-foot high fence in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Coulter

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-088(SL)

BUILDING OFFICIAL'S REPORT: Application of Bryan Hull, represented by Roger Albright, for a special exception to the landscape regulations at 2621 McKinney Avenue. This property is more fully described as part of Lot 4, Block 3/955 and is zoned PD-193 (LC), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2621 McKinney Avenue

APPLICANT: Bryan Hull
Represented by Roger Albright

REQUEST:

A request for a special exception to the landscape regulations is made to maintain a "renovation/addition" (according to the applicant's representative, a roof over an uncovered patio) added in 2011 to an existing restaurant/bar use/structure (The Black Friar Pub), and not fully provide required landscaping.

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale:

- The Chief Arborist recommends approval of the submitted revised alternate landscape plan because the revisions shown on the submitted revised alternate landscape plan do not appear to compromise the spirit and intent of the landscape requirements of PD 193.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light Commercial)
North: PD 193 (LC) (Planned Development District, Light Commercial)
South: PD 193 (LC) (Planned Development District, Light Commercial)
East: PD 193 (LC) (Planned Development District, Light Commercial)
West: PD 9 (Planned Development District)

Land Use:

The subject site is developed with a restaurant/bar use/structure (The Black Friar Pub). The areas to the north and east are developed with retail uses; the area to the south is under development; and the area to the west is developed with multifamily use.

Zoning/BDA History:

1. BDA 956-142, Property located at 2621 McKinney Avenue (the subject site)

On February 27, 1996, the Board of Adjustment Panel C denied a request for a variance to the off-street parking regulations without prejudice but granted a request for a special exception to the landscape regulations imposing the following condition to this request: the property must comply

with the submitted revised landscape plan submitted to the Board Administrator for approval – this landscape plan should indicate a screening fence to be placed on the Howland Street side of the site.

The case report stated that the requests were made to construct a 960 square foot addition to an existing 4,560 square foot retail use (Lulu's Bait Shack Restaurant).

GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on maintaining a “renovation/addition” (according to the applicant’s representative, a roof over an uncovered patio) added in 2011 to an existing restaurant/bar use/structure (The Black Friar Pub), and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted revised landscape plan would not conform to PD 193 landscape regulation standards related to tree planting zone, sidewalk location/width; and surface parking area screening.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist states in a memo (see Attachment B) that the request in this case is triggered by new construction resulting in increased floor area ratio on the property.
- The Chief Arborist notes that the submitted revised landscape site plan is deficient in the following ways:
 1. The plan provides one existing tree along McKinney Avenue adjacent to the curb and a new live oak tree approximately six feet from the property line along Howland Street. (A tree planting zoned between 2.5’ and 5’ from back of curb is required).
 2. The McKinney Avenue sidewalk is generally six feet wide from back of curb with exception of a tree and light standard obstruction. The Howland Street frontage will retain an existing drive approach. (A six foot sidewalk from 5’ – 12” from back of curb is required).
 3. The off-street parking screening, typically required to be a minimum of 42” in height, does not achieve the full height but has a proposed 30” tall masonry wall bordered by shrubs. No screening at the end of the parking row facing McKinney Avenue is provided. (All off-street surface parking areas require screening at a minimum height of 3.5’ above the parking surface).
- The Chief Arborist listed several factors for consideration:

1. The revised alternative landscape plan provides for the removal of 2' of an existing planting bed which currently encroaches into the required sidewalk area for McKinney Avenue. This expands the total sidewalk to 6' with the exception of a limited space for an existing tree and a light standard which restricts the ability to add an additional tree in the zone.
 2. Additional existing front yard landscaping along McKinney Avenue provides for a layered landscape design with other trees and shrubs.
 3. New landscaping is provided along the frontage of Howland Street along the two sides of a 30" tall screening wall. A garbage storage screen is placed adjacent to the wall. A new live oak tree is provided in the center of the frontage area next to the drive entry.
 4. The placement of the garbage storage screening fence although suitable for screening purposes does not provide for authorization of the garbage storage structure in the front yard. The applicant may wish to consider if expansion of the screening fence to beyond the front yard setback would be helpful for them to accommodate a garbage storage structure on the property.
 5. The physical condition of Howland Street frontage does not favor the placement of the sidewalk and tree planting zone as a matter for landscape elements of PD 193 due to existing conditions along adjoining properties.
- The Chief Arborist recommends approval of the submitted revised alternate landscape plan because the revisions do not appear to compromise the spirit and intent of the landscape requirements of PD 193.
 - The applicant has the burden of proof in establishing the following:
 - The special exception (where a revised alternate landscape plan has been submitted that is deficient in meeting the tree planting zone, sidewalk location/width; and surface parking area screening requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P-193-126: "Landscape, streetscape, screening, and fencing standards".
 - If the Board were to grant this request and impose the submitted revised alternate landscape plan as a condition, the site would be granted exception from full compliance to the tree planting zone, sidewalk location/width; and surface parking area screening requirements of the PD 193 landscape regulations.
 - Note that if the Board were to grant the applicant's request for a special exception to the landscape regulations, and impose the submitted revised alternate landscape plan as a condition, no additional relief would be provided to the applicant regarding any existing/proposed noncompliance on the subject site to any zoning code provision including but not limited to front yard setback regulations.

Timeline:

- June 16, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply

with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

August 19, 2015: 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 September 2nd deadline to submit additional evidence for staff to factor into their analysis; and the September 11th 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."

September 2, 2015: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

September 10, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment B).

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: Roger Albright, 3301 Elm, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment, in request No. **BDA 145-088**, on application Bryan Hull, **grant** the request to provide an alternate landscape plan as a special exception to

the landscape regulations in PD193 (LC) code because our evaluation of the property and the testimony shows that the special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following conditions be imposed to further the purpose and intent of the Oak Lawn Ordinance:

- Compliance with the submitted revised alternate landscape plan is required.

SECONDED: Schulte

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-098(SL)

BUILDING OFFICIAL’S REPORT: Application of Kathie Peng, represented by Robert Reeves and Associates for a special exception to the fence height regulations at 4606 Walnut Hill Lane. This property is more fully described as Lot 23A, Block 5543, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 8 foot 6 inch high fence, which will require a 4 foot 6 inch special exception to the fence height regulations.

LOCATION: 4606 Walnut Hill Lane

APPLICANT: Kathie Peng
Represented by Robert Reeves and Associates

REQUEST:

A request for a special exception to the fence height regulations of 4’ 6” is made to construct and maintain a 7’ high stone wall with 7’ 6” high stone columns, and an approximately 6’ 6” – 8’ 6” high gate flanked with 8’ 6” high entry columns on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (A) (Single family district 1 acre)
North: R-1ac (A) (Single family district 1 acre)
South: R-1ac (A) (Single family district 1 acre)
East: R-1ac (A) (Single family district 1 acre)
West: R-1ac (A) (Single family district 1 acre)

Land Use:

The subject site is 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 145-021, property at 4606 Walnut Hill Lane (the subject site)

On March 16, 2015, the Board of Adjustment Panel C granted a request for special exception to the fence height regulations of 4' 6" and imposed the following condition: compliance with the submitted revised site plan, conceptual/landscape plan, and elevation is required.

The case report stated the request was made to construct and maintain a 7' high "wall faced with Lueders limestone" with 7' 6" high columns, and an approximately 6' – 7' high gate flanked with 8' 6" high entry columns on a site developed with a single family home. (Note that on June 22, 2015, the Board of Adjustment Panel C granted the applicant's request to waive the two year limitation on a final decision made on this request that would allow the applicant to refile a new fence height special exception on the property.

2. BDA 990-271, property at 9963 Rockbrook Lane (two lots east of the subject site)

On May 15, 2000, the Board of Adjustment Panel C granted requests for special exceptions to the single family use and fence height regulations of 2' and imposed the following conditions: to the single family use special exception: compliance with the submitted site plan is required; and applicant must submit a valid deed restriction prohibiting the additional dwelling unit of the site from being used as a rental accommodation; and to fence height special exception: 1) In conjunction with retaining the 6 foot high brick/masonry wall, a tree survey or a landscape plan documenting the trees to be retained adjacent to the existing wall must be submitted, and 2) a landscape plan documenting the retention of ivy vines on the existing wall must be submitted.

The case report stated the requests were made to maintain an existing 6' high brick wall along Walnut Hill Lane and construct/maintain an extension of this wall an additional 90 feet westward along Walnut Hill Lane, and to construct/maintain a pool house/dwelling unit structure on the site.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 7' high stone wall with 7' 6" high stone columns, and an approximately 6' 6" – 8' 6" high gate flanked with 8' 6" high entry columns on a site developed with a single family home.
- 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 a partial site plan/elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 8' 6".
- The submitted site plan indicates the following:
 - The fence proposal is represented as being approximately 150' in length parallel to the street including a recessed entryway feature.
 - The fence proposal is represented as being located approximately 6' from the front lot line or about 16' from the pavement line.

- The gate proposal is represented as being located approximately 21' from the front lot line or about 30' from the pavement line.
- A "planting in front of wall (ref: landscape plan)" is noted on the street side of the proposed fence.
- The submitted partial site plan and elevation notes landscape materials to be located on both sides of the proposed fence. This document notes species, the number of each plant material, and the size of each plant material. These landscape materials include:
 - 44, 3 gallon Boxwoods
 - 30, 3 gallon Miscanthus grass
 - 6 tree form yaupon holly
 - 4, 30 gallon Nellie Stevens holly
 - 680 purple wintercreeper groundcover (4" posts)
 - 240 seasonal color in 4" pots.
- The fence proposal is located on the site where three lots would have direct/indirect frontage to it – one of which (the lot northeast of the site) has an approximately 8' high wood fence with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback – an approximately 5' high solid brick fence located immediately east of the subject site with no recorded BDA history.
- As of September 11, 2015, 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 height regulations of 4' 6" will not adversely affect neighboring property.
- Granting this special exception of 4' 6" with a condition imposed that the applicant complies with the submitted site plan and partial site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

July 15, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 19, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

August 19, 2015: The Board Administrator contacted the applicant's representative and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 2nd deadline to submit additional evidence for staff to factor into their analysis; and the September 11th 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.”

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move to grant that the Board of Adjustment grant application **BDA 145-098** 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 partial site plan/elevation is required.

SECONDED: **Beikman**

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-067(DL)

BUILDING OFFICIAL’S REPORT: Application of Laura Hoffman for a special exception to the fence height regulations at 10121 Waller Drive. This property is more fully described as Lot 4, Block C/5517, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 7 inch high fence in a required front yard, which will require a 4 foot 7 inch special exception to the fence regulation.

LOCATION: 10121 Waller Drive

APPLICANT: Laura Hoffman, Winstead PC

REQUEST:

The following request for a special exception has been made on a site that is developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 4’ 7” is made to construct a 5’ 3” high open wrought iron fence with 6’ 2” high stucco columns, and an arched 8’ 7” high, approximately 18’ wide, open wrought iron gate, parallel and perpendicular to the street in the required 50’ front yard along Waller Drive.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION (FENCE HEIGHT):

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

BACKGROUND INFORMATION:

Zoning:

- Site: R-1ac(A) (Single Family Residential District 1 Acre)
- North: R-1ac(A) (Single Family Residential District 1 Acre)
- South: R-1ac(A) (Single Family Residential District 1 Acre)
- East: R-1ac(A) (Single Family Residential District 1 Acre)

West: R-1ac(A) (Single Family Residential District 1 Acre)

Land Use:

The subject site is currently developed with a single family home. The areas to the north, south, east, and west are developed with single family residential 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 (FENCE HEIGHT):

- This request focuses on constructing a 5' 3" high open wrought iron fence with 6' 2" high stucco columns, and an arched 8' 7" high, approximately 18' wide, open wrought iron gate, parallel and perpendicular to Waller Drive, in the 50' required front yard on a site developed with a single family home/use.
- 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.
- An R-1ac(A) Single Family Residential District requires the minimum front yard setback to be 40'. However, the site also has a 50' platted build line along Waller Drive, which supersedes the 40' minimum front yard setback.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 157' in length parallel to Waller Drive.
 - The open, wrought iron fence will extend approximately 39' in length into the 50' required front yard.
 - The proposal is represented as being located approximately 12' from the pavement line.
 - The fence is represented as being located approximately 1' from the property line, and the entry gate is represented as being located approximately 9' from the property line.
- The Current Planner conducted a field visit of the site and surrounding area and noted no other visible fences above 4 feet in height which appeared to be located in a front yard setback.
- One home fronts the proposal.
- As of September 14th, five (5) letters have been submitted in support of the request, twenty-seven (27) letters have been submitted in opposition to the request, and five (5) letters have been submitted not opposing the request.
- As of September 14th, two petitions have been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' 7" will not adversely affect neighboring property.

- Granting this special exception of 4' 7" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' 7" in height in the front yard setback to be maintained in the location and of the heights and materials shown on these documents.

Timeline:

April 22, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 12, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 15, 2015: The Current Planner shared the following information with the applicant via e-mail:

- 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 3rd deadline to submit additional evidence for staff to factor into their analysis; and the June 12th 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.

June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

June 22, 2015: The Board of Adjustment Panel C voted to hold this application under advisement until August 24, 2015.

August 14, 2015: The Board Administrator contacted the applicant to inform him that because of a notification error, the application would be delayed

from Panel C's August 24th hearing to Panel C's September 21st hearing.

August 18, 2015: Due to the notification error, notices were prepared and then sent to Property owners within a 200' radius of the site to advise them that the case was moved to September 21, 2015.

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: Kirk Williams, 2728 N Harwood, Ste 500, Dallas, TX
Marvin Ellison, 10121 Waller Drive, Dallas, TX
Blake Woodall, 5222 Meaders, Dallas, TX
Maggie Murchinson, 10131 Gaywood, Dallas, TX
Cynthia Feldman, 5358 Meaders, Dallas, TX
Audrey Stewart, 10240 Gaywood, Dallas, TX
JJ Leeds, 10257 Gaywood, Dallas, TX
Taylor Mitchell, 10257 Gaywood, Dallas, TX

APPEARING IN OPPOSITION: Tim Durst, 10115 Waller Dr., Dallas, TX
Chris Anderson, 5207 Kelsey Rd., Dallas, TX
Elaine Everitt, 5106 Kelsey Rd., Dallas, TX

MOTION #1: Coulter

I move that the Board of Adjustment, in request No. **BDA 145-067**, on application of Laura Hoffman, **grant** the request to construct and maintain an 8-foot 7-inch high fence in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan and elevation is required.

SECONDED: Richardson
AYES: 3 – Richardson, Coulter, Schulte
NAYS: 2 – Carreon, Beikman
MOTION FAILED: 3 – 2

MOTION #2: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-067**, on application of Laura Hoffman, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: Beikman
AYES: 4 –Coulter, Carreon, Schulte, Beikman
NAYS: 1 – Richardson,
MOTION PASSED: 4 – 1

Break: 3:20 P.M.
Resumed: 3:15 P.M.

FILE NUMBER: BDA 145-074(SL)

BUILDING OFFICIAL’S REPORT: Application of Dylan Elchami for a variance to the front yard setback regulations at 2808 Oak Lawn Avenue. This property is more fully described as Tract 4, Block 1/1025, and is zoned PD-193 (GR), which requires a front yard setback of 10 feet. The applicant proposes to construct and/or maintain and/or a structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulations.

LOCATION: 2808 Oak Lawn Avenue

APPLICANT: Dylan Elchami

REQUEST:

A request for a variance to the front yard setback regulations of 10’ is made to maintain a “covered open pergola patio area”/deck structure, a portion of which is located as close as on the site’s Oak Lawn Avenue front property line (as measured from the required right-of-way) or as much as 10’ into this required 10’ front yard setback on a site developed with a restaurant use (Le Taco Cantina).

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:

Denial

Rationale:

- Staff had concluded that there was no property hardship to the site that warranted a front yard variance in this case made to maintain a “covered open pergola patio area”/deck structure on a site already developed with a restaurant use. Even though this site is slightly sloped, irregular in shape, and has two front yard setbacks, these characteristics do not create hardship or preclude the applicant from developing it in a manner commensurate with other developments found in the same PD No. 193 (GR) zoning district. The subject site is developed with a restaurant use structure where the physical characteristics of it do not warrant a variance for an added “covered open pergola patio area”/deck structure in the front yard setback.
- The applicant had not substantiated how the physical features of the slightly sloped, irregular shaped, approximately 13,000 square foot site with two front yard setbacks preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (GR) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (GR) (Planned Development District, General retail)
North: PD 193 (GR) (Planned Development District, General retail)
South: PD 193 (D) (Planned Development District, General retail)
East: PD 193 (GR) (Planned Development District, Duplex)
West: PD 193 (GR) (Planned Development District, General retail)

Land Use:

The subject site is developed with a restaurant use (Le Taco Cantina). The areas to the north, south, and west are developed with a mix of non-residential uses, and the area to the east is developed with residential use.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on maintaining a portion of an approximately 680 square foot “covered open pergola patio area”/deck structure that is located as close as on the site’s Oak Lawn Avenue front property line (as measured from the required right-of-way) or as much as 10’ into this required 10’ front yard setback on a site developed with a restaurant use (Le Taco Cantina).).
- The minimum front yard setback for “other permitted structures” (which would include the pergola/patio structure) on lots zoned PD No. 193 (GR Subdistrict) is 10’.
- Note that while the site also has a front yard setback on Gillispie Street, no part of this application is made to maintain or construct/maintain a structure in the Gillispie Street front yard setback.
- The Dallas Development Code states that the front yard setback is measured from the front lot line of the building site or the required right-of-way as determined by the thoroughfare plan for all thoroughfares, whichever creates the greater setback.”
- A site plan has been submitted denoting that the “covered open pergola patio” structure is located 13’ 5” from the Oak Lawn Avenue front lot line of the building site but on the required right-of-way or as much as 10’ into this required 10’ front yard setback.
- The site plan represents that the “covered open pergola patio”/deck structure is approximately 1,000 square feet in area of which about 1/3 (or approximately 350 square feet) is located in the Oak Lawn Avenue front yard setback.
- The Sustainable Development and Construction Department Project Engineer emailed the Board Administrator the following information: The portion of Oak Lawn Avenue that the subject site is located on is part of the thoroughfare, however, there is no proposed widening per the thoroughfare plan – south/west of Maple Avenue is where the widening should occur.
- According to DCAD records, the “improvements” at 2808 Oak Lawn Avenue is a “restaurant” that is 3,318 square feet in area built in 1951.
- The subject site is slightly sloped, irregular in shape, and is according to the application, 0.31 acres (or approximately 13,000 square feet) in area. The site is zoned PD 193 (GR). The site has two, 10’ front yard setbacks which is typical of any lot that with two street frontages that is not zoned single family, duplex, or agricultural.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback 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 PD 193 (GR) 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 PD 193 (GR) zoning classification.
- If the Board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document—a “covered open pergola patio area”/deck structure of which a portion is located as much as 10’ into this required 10’ Oak Lawn Avenue front yard setback.

Timeline:

- April 11, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- June 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- June 19, 2015: 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 July 29th deadline to submit additional evidence for staff to factor into their analysis; and the August 14th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- August 11, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and

Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

August 14, 2015: The Board Administrator contacted the applicant to inform him that because of a notification error, the application would be delayed from Panel C's August 24th hearing to Panel C's September 21st hearing.

September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 21, 2015

APPEARING IN FAVOR: Dylan Elchami, 2808 Oaklawn Ave., Dallas, TX

APPEARING IN OPPOSITION: Michael Milliken, 3532 Cedar Plaza LN, Dallas, TX

MOTION #1: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-074**, hold this matter under advisement until **October 19, 2015**.

SECONDED: Coulter

***MOTION WAS WITHDRAWN BY THE MAKER AND NO VOTE WAS CALLED.**

MOTION #2: Beikman

I move that the Board of Adjustment, in request No. **BDA 145-074**, on application of Dylan Elchami, **deny** the front yard setback variance **without** prejudice because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant, and that it is not a restrictive 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.

SECONDED: Coulter

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Schulte

I move to adjourn this meeting.

SECONDED: Richardson

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

3:55 P. M. - Board Meeting adjourned for **September 21, 2015.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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