

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL L1FN AUDITORIUM
WEDNESDAY, OCTOBER 18, 2017**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Marla Beikman, regular member, Matt Shouse, regular member and Philip Sahuc, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, Marla Beikman, regular member, Matt Shouse, regular member and Philip Sahuc, alternate 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, Phil Erwin, Chief Arborist, Jennifer Munoz, Senior Planner and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Jennifer Munoz, Senior Planner and Trena Law, Board Secretary

11:07 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 18, 2017 docket.**

1:00 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 September 20, 2017, public hearing minutes.

BOARD OF ADJUSTMENT ACTION: OCTOBER 18, 2017

MOTION: None

The minutes were approved.

MISCELLANEOUS ITEM NO. 2

Approval of the Board of Adjustment Panel B's 2018 Public Hearing Calendar.

BOARD OF ADJUSTMENT ACTION: OCTOBER 18, 2017

Approval of the Board of Adjustment Panel B's 2018 Public Hearing Calendar.

FILE NUMBER: BDA167-105(JM)

BUILDING OFFICIAL'S REPORT: Application of Michelle Brooks/Mark Molthan Construction, Inc., represented by Michelle Brooks, Wyatt Seals, or Paul Steinbrecher, for special exceptions to the fence standards at 9203 Sunnybrook Lane. This property is more fully described as Lots 7 & 8, Block 13-A/5586, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain an 8-foot-high fence in a required front yard, which will require a 4 foot special exception to the fence standards, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 9203 Sunnybrook Lane

APPLICANT: Michelle Brooks/Mark Molthan Construction, Inc.
Represented by Michelle Brooks, Wyatt Seals, or Paul Steinbrecher

REQUEST:

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

- 1) A special exception related to fence height of 4' is made to complete and maintain a fence higher than 4' in height in the front yard setback (a 7' 6" wrought iron fence with 8' stone columns and stone wing walls); and
- 2) A special exception related to fence materials is made to complete and maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with a single family home (under construction). The areas to the north, east, and south are developed with single family uses. A creek exists to the west (floodplain).

Zoning/BDA History:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. BDA145-008, Property at 9246 Sunnybrook Lane (northeast of the subject site) | <p>On January 20, 2015, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 4'. The case report stated that the request was made in conjunction with constructing and maintaining an 8' high limestone masonry fence towards the northwest of the property, a 6'-2" high painted steel fence between 2 evergreen hedges towards the west and south sides</p> |
|---|---|

of the property, one 6'-2" high painted steel service gate towards the south of the property, and one 8' high painted steel vehicular gate towards the northwest of the property, parallel and perpendicular to Sunnybrook Lane.

2. BDA967-128, Property at 4936 Radbrook Place (southwest of the subject site)

On November 18, 1996, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of up to 6' and a special exception to the visibility triangle regulations. The case report stated that the request was made in conjunction with constructing and maintaining a 6' wrought iron fence with 7' gates and 10' stone columns (the latter from BDA action in 1985, but the fence was never constructed).

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the fence standards focus on completing and maintaining: 1) a fence higher than 4' in height in the front yard setback (a 7' 6" wrought iron fence with 8' stone columns and stone wing walls); and, 2) a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-1ac(A).
- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.
 - The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height is represented as being approximately 38' 10" along the northeast property boundary (1' 2" from the property line on Sunnybrook Ln.); 240' 1" along the property line parallel to Sunnybrook Ln.; and, 297' along the south property boundary, parallel to Radbrook Pl. (8' 5" from the southwest boundary with the floodplain and on the property line at the corner of Sunnybrook Ln. and Radbrook Pl.)—all within the front yard setback.

- Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:
 - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line.
 - With regard to the special exception to the fence standards pertaining to the location and materials of the proposed fence, the applicant has submitted a site plan and elevation of the fence with fence panels with surface areas that are less than 50 percent open (a 7' 6" wrought iron fence with 8' stone columns and stone wing walls) located as close as on the front lot line (or less than 5' from this front lot line).
- The Board Senior Planner conducted a field visit of the site and surrounding area within the same block facing Sunnybrook Ln. and Radbrook Pl. and noted **four fences** that appeared to be above 4' in height and located in a front yard setback. Two cases had BDA history as noted in the history section of this report.
- As of October 6, 2017, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setback and materials/height/location of the proposed fence will not adversely affect neighboring property. Evidence was submitted with this application and is provided in within the application materials.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

July 18, 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 18, 2017: The Board Senior Planner emailed the applicant's representative 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 27th deadline to submit additional

evidence for staff to factor into their analysis; and the October 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;

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

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, 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 OCTOBER 18, 2017

APPEARING IN FAVOR: Michelle Brooks, 7001 Preston Road, Dallas, TX

APPEARING IN OPPOSITION: Pamela Graham, 4905 Radbrook Place, Dallas, TX

MOTION: **Beikman**

I move that the Board of Adjustment in Appeal No. **BDA 167-105**, hold this matter under advisement until **November 15, 2017**.

SECONDED: **Sahuc**

AYES: 4 – Hounsel, Beikman, Shouse, Sahuc

NAYS: 0

MOTION PASSED 4 – 0 (unanimously)

FILE NUMBER: BDA167-111(SL)

BUILDING OFFICIAL'S REPORT: Application of Karl A. Crawley for a special exception to the landscape regulations at 5750 E. Lovers Lane. This property is more fully described as Lot 1A, Block G/5402, and is zoned PD-610 (Tract 1), 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: 5750 E. Lovers Lane

APPLICANT: Karl A. Crawley

REQUEST:

A request for a special exception to the landscape regulations is made to construct and maintain an approximately 7,000 square foot addition to an existing approximately 96,000 square foot general merchandise or food store use (Central Market), and not fully meet the landscape regulations, more specifically to not provide the mandatory perimeter landscape buffer strip with buffer plant materials on southeast corner of the on the subject site.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:

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

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

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the request concluding that strict compliance with the requirements will unreasonably burden the use of the property, and that the special exception will not adversely affect/negatively impact neighboring property.
- In making this conclusion, staff considered that the following facts:
 - Street trees have been located in approved locations around the property so that the full requirement of street trees is provided throughout all other street frontages outside of the utility easement.

- The site east of this property, and north of Milton Street, has been rezoned to a non-residential district in PD 799 since the initial development of this property, therefore, the residential adjacency landscape requirements no longer exist for the Matilda Street perimeter in that location, and only applies to the southeastern corner of the site.
- The developed site complies with all other Article X requirements.

BACKGROUND INFORMATION:

Zoning:

Site: PD 610 (Planned Development)
North: MU-3 (Mixed Use)
South: MU-3 & PD 333 (Mixed Use and Planned Development)
East: PD 799 (Planned Development)
West: MU-3 (Mixed Use)

Land Use:

The subject site is developed with a general merchandise or food store use (Central Market). The areas to the north and west are developed with retail uses; the area to the east is developed with multifamily use; and the area to the south is developed retail and storage uses.

Zoning/BDA History:

1. BDA067-046, Property at 5750 E. Lovers Lane (the subject site)

On March 21, 2007, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations (subject to compliance with the submitted site/development plan), and on April 18, 2007, the Board of Adjustment Panel B granted a request for a special exception to the landscape regulations and imposed the following conditions: 1) All landscaping identified on the landscape plan more than 50 feet beyond the shown construction areas (including courtyard) must be installed and maintained, and the landscaping must be inspected by the city arborist by June 2, 2007; and 2) All remaining landscaping shown on the landscape plan must be installed and inspected by the city arborist prior to final inspection of the new building addition.

The case report stated that the requests were made to construct and maintain

additions to the existing retail structure (Central Market).

2. BDA023-008, Property at 5750 E. Lovers Lane (the subject site)

On November 12, 2002, the Board of Adjustment Panel A granted a request for a special exception to the landscape regulations and imposed the submitted revised landscape plan as a condition.

The case report states that the request was made to “remove all trees from ONCOR utility easement” needed to obtain a final Certificate of Occupancy for the retail use on the site (Central Market).

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on constructing and maintaining an approximately 7,000 square foot addition to an existing approximately 96,000 square foot general merchandise or food store use (Central Market), and not fully meeting the landscape regulations, more specifically not providing the mandatory perimeter landscape buffer strip with buffer plant materials on southeast corner of the subject site.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant’s request (see Attachment B).
- The Chief Arborist’s memo states the following with regard to “request”:
 - The applicant is requesting a special exception to the landscape regulations of Article X. The proposed landscape plan is a revision of a landscape plan approved by the Board in 2002.
- The Chief Arborist’s memo states the following with regard to “provision”:
 - The property is developed with landscaping approved during review for the initial permit for construction in 2002. Site plan changes, approved under an amendment to the development plan in PD 610, will modify the landscape conditions on the eastern side of the building. The project does not trigger new Article X regulations, but the modification requires approval by the Board.
- The Chief Arborist’s memo states the following with regard to “deficiencies”:
 - The The southeastern corner of the property has direct residential adjacency to an MF-1(A) area which requires a mandatory perimeter landscape buffer strip (10.125(b)(1)) with buffer plant materials (10.125(b)(7)). Although the landscape area is provided, the overhead electric utility prohibits the planting of the required large trees within the landscape area. A grouping of 8 pine trees which buffer the building facing Matilda Street are to be removed for the new building expansion:

- The Chief Arborist’s memo states the following with regard to “factors”:
 - Street trees have been located in approved locations around the property so that the full requirement of street trees is provided throughout all other street frontages outside of the utility easement. This is no longer a deficiency to the site.
 - The site east of this property, and north of Milton Street, has been rezoned to a non-residential district in PD 799 since the initial development of this property. Therefore, the residential adjacency landscape requirements no longer exist for the Matilda Street perimeter in that location. It only applies to the southeastern corner of the site.
 - The developed site complies with all other Article X requirements.
- The City of Dallas Chief Arborist recommends approval of the revised alternate landscape plan because strict compliance with the Article X regulations will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring properties.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the mandatory perimeter landscape buffer strip with buffer plant materials on southeast corner of the subject site.

Timeline:

August 15, 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.

September 12, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

September 12, 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 September 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 27, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, 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.

October 4, 2017: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B).

BOARD OF ADJUSTMENT ACTION OCTOBER 18, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move to grant that the Board of Adjustment grant application **BDA 167-111(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 alternate landscape plan is required.

SECONDED: Beikman

AYES: 4 – Hounsel, Beikman, Shouse, Sahuc

NAYS: 0

MOTION PASSED 4 – 0 (unanimously)

FILE NUMBER: BDA167-117(JM)

BUILDING OFFICIAL’S REPORT: Application of Kip Petroff for special exceptions to the fence standards at 10802 Dove Brook Circle. This property is more fully described as Lot 34, Block Y/7288, and is zoned R-13(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50

percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 10802 Dove Brook Circle

APPLICANT: Kip Petroff

REQUEST:

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

- 3) A special exception related to fence height of 4' is made to complete and maintain a fence higher than 4' in height in the front yard setback (an 8' solid wood fence with cap); and
- 4) A special exception related to fence materials is made to complete and maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-13(A) (Single family district 13,000 square-feet)
North: R-13(A) (Single family district 13,000 square-feet)
South: MF-2(A) (Multifamily district)
East: MF-2(A) (Multifamily district)
West: R-13(A) (Single family district 13,000 square-feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the fence standards focus on completing and maintaining: 1) a fence higher than 4' in height in the front yard setback (8' solid wood fence with cap); and, 2) a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-13(A).
- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.
 - The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height is represented as being approximately 15' along the north property boundary (on the property line); 130' along the property line parallel to Stone Canyon Rd.; and, 15' along the south perpendicular to Stone Canyon Rd. and up to the property line—all within the 15' front yard setback on Stone Canyon Rd.
- Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:
 - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line.
 - With regard to the special exception to the fence standards pertaining to the location and materials of the proposed fence, the applicant has submitted a site plan and elevation of the fence with fence panels with surface areas that are less than 50 percent open (8' solid wood fence with cap) located as close as on the front lot line (or less than 5' from this front lot line).

- The Board Senior Planner conducted a field visit of the site and surrounding area within the same block facing Dove Brook Cir. and Stone Canyon Rd. and noted **no other fences** that appeared to be above 4' in height and located in a front yard setback.
- As of October 6, 2017, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setback and materials/height/location of the proposed fence will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

August 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 18, 2017: The Board Senior Planner emailed the applicant's representative 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 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, 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 OCTOBER 18, 2017

APPEARING IN FAVOR: Kip Petroff, 10802 Dove Brook Circle, Dallas, TX

APPEARING IN OPPOSITION: Ember Flack, 10831 Stone Canyon Road, Dallas, TX

MOTION #1: Shouse

I move that the Board of Adjustment, in Appeal No. **BDA 167-117**, on application of Kip Petroff, **grant** the request of this applicant to construct and/or maintain an eight-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: Beikman

AYES: 0 -

NAYS: 4 – Hounsel, Beikman, Shouse, Sahuc

MOTION FAILED: 0-4

MOTION #2: Hounsel

I move that the Board of Adjustment in Appeal No. **BDA 167-117**, hold this matter under advisement until **November 15, 2017**.

SECONDED: Sahuc

AYES: 4 – Hounsel, Beikman, Shouse, Sahuc

NAYS: 0

MOTION PASSED 4 – 0 (unanimously)

FILE NUMBER: BDA167-110(SL)

BUILDING OFFICIAL’S REPORT: Application of Rosalba Robledo, represented by Elias Rodriguez of Construction Concepts, for a special exception to the side yard setback regulations for a carport at 633 Elwayne Avenue. This property is more fully described as Lot 24, Block 3/6251, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport and provide a 2 foot 5 inch setback, which will require a 2 foot 7 inch special exception to the side yard setback regulations.

LOCATION: 633 Elwayne Avenue

APPLICANT: Rosalba Robledo
Represented by Elias Rodriguez of Construction Concepts

October 18, 2017 Public Hearing Notes:

- The Board Administrator circulated a revised site plan and elevations from applicant to the Board members at the briefing (see Attachment A).

REQUEST:

A request for a special exception to the side yard setback regulations of 2' 7" is made to maintain a carport located 2' 5" from the site's southern side property line or 2' 7" into this 5' required side yard setback on a site developed with a single family home structure/use.

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

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, 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 side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

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 area to the north, east, and west are developed with single family 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:

- This request for a special exception to the side yard setback of 2' 7" focuses on maintaining an approximately 740 square foot carport 2' 5" from the site's southern side property line or 2' 7" into the site's southern 5' required side yard setback, on a site developed with a single family home structure/use.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The submitted site plan and elevations represent the size and materials of the carport, and its location 2' 5" from the site's southern side property line.
- The submitted site plan represents the following:
 - The carport is approximately 62' in length and approximately 12' in width (approximately 740 square feet in total area) of which approximately 20 percent is located in the southern 5' side yard setback.
- The submitted elevations represent the following:
 - Ranging in height from 6' 9" – 7' 4".
 - Gauge metal roofing.
 - Metal columns.
- On September 29, 2017, the Board Administrator made the applicant's representative aware of the fact that the submitted elevations do not reflect the features of the existing structure. The applicant's representative said that he would submit revised elevations.
- On October 6, 2017, the Board Administrator emailed the applicant's representative that the following points would be incorporated into the case report on this application seeing that he had not submitted revised elevations to staff:
 1. The application is to maintain the carport on the property with any requisite modifications to be made to meet building code.
 2. The applicant's representative is aware of the fact that the elevation submitted with the original application does not match the existing carport on the property.
 3. The applicant's representative intends to submit revised elevations to Building Inspection prior to your submittal of "the /Building Inspection-approved" elevations to the board at the October 18th public hearing.
- The Board Administrator conducted a field visit of the area approximately 500 feet north and south of the subject site and noted one other carport that appeared to be

located in a side yard setback. A carport that appeared to be located in a side yard was noted two lots south of the subject site with no recorded BDA history.

- As of October 6, 2017, no letters had been submitted in support of or in opposition to this application.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 2' 7" 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 site plan and elevations is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board were to grant this request and impose the submitted elevations as a condition to the request, the applicant would be required to modify the existing carport on the site to match that what is shown on these documents.
- Granting this request for a special exception to the side yard setback regulations will not provide any relief on the subject site with regard to visual obstruction regulations.

Timeline:

August 8, 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 12, 2017: The Board Administrator emailed the applicant's representative 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 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 29, 2017: The Board Administrator emailed the applicant's representative his discovery that the features of the existing structure on the site did not match the structure represented on his submitted elevations;

and that new elevations would be submitted to staff before the October 18th hearing since typically when the board grants these requests, they impose the submitted elevation as a condition to the request.

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, 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.

October 6, 2017: The Board Administrator emailed the applicant's representative that the following points would be incorporated into the case report on this application seeing that he had not submitted revised elevations to staff:

1. The application is to maintain the carport on the property with any requisite modifications to be made to meet building code.
2. The applicant's representative is aware of the fact that the elevation submitted with the original application does not match the existing carport on the property.
3. The applicant's representative intends to submit revised elevations to Building Inspection prior to your submittal of "the /Building Inspection-approved" elevations to the board at the October 18th public hearing.

BOARD OF ADJUSTMENT ACTION OCTOBER 18, 2017

APPEARING IN FAVOR: Elias Rodriguez, 317 E Jefferson, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Sahuc**

I move that the Board of Adjustment, in Appeal No. **BDA 167-110**, on application of Rosalba Robledo represented by Elias Rodriguez, **grant** the request of this applicant to construct and/or maintain a carport in the required side yard setback and provide a two foot five inch setback as a special exception to the side yard setback requirement in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not detrimentally impact surrounding properties and there is not adequate vehicular access to an area behind the required side building line that would accommodate a parking space. 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 and revised elevations is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

SECONDED: Shouse

AYES: 4 – Hounsel, Beikman, Shouse, Sahuc

NAYS: 0 -

MOTION PASSED 4 – 0 (unanimously)

MOTION: Beikman

I move to adjourn this meeting.

SECONDED: Hounsel

AYES: 4 – Hounsel, Beikman, Shouse, Sahuc

NAYS: 0

MOTION PASSED 4 – 0 (unanimously)

2:02 P.M. Board Meeting adjourned for **October 18, 2017**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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