

ZONING BOARD OF ADJUSTMENT, PANEL C  
MONDAY, MARCH 19, 2018  
AGENDA

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BRIEFING	5ES 1500 MARILLA STREET DALLAS CITY HALL	11:30 A.M.
PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

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**Neva Dean, Assistant Director**  
**Steve Long, Board Administrator/ Chief Planner**  
**Oscar Aguilera, Senior Planner**

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**MISCELLANEOUS ITEM**

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Approval of the February 22, 2018 Board of Adjustment  
Panel C Public Hearing Minutes M1

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**UNCONTESTED CASES**

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- |                       |  |   |
|-----------------------|--|---|
| <b>BDA178-030(SL)</b> | 1520 Olympia Drive<br><b>REQUEST:</b> Application of Winfield Moore,<br>represented by Chris Bowers, for a variance to the<br>front yard setback regulations         | 1 |
| <b>BDA178-032(OA)</b> | 10564 Lennox Lane<br><b>REQUEST:</b> Application of Eric Einsenberg,<br>represented by Bob Mirabito, for special exceptions to<br>the visual obstruction regulations | 2 |
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**REGULAR CASE**

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- |                       |   |   |
|-----------------------|---|---|
| <b>BDA178-034(SL)</b> | 8457 San Benito Way<br><b>REQUEST:</b> Application of Robert Baldwin of Baldwin<br>and Associates for a variance to the front yard setback<br>regulations | 3 |
|-----------------------|---|---|

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## EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt. Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

**FILE NUMBER:** BDA178-030(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Winfield Moore, represented by Chris Bowers, for a variance to the front yard setback regulations at 1520 Olympia Drive. This property is more fully described as Lot 27, Block 8/3826, and is zoned CD 13, which requires a front yard setback of 31 feet 6 inches. The applicant proposes to construct and maintain a structure and provide a 20 foot 3 inch front yard setback, which will require an 11 foot 3 inch variance to the front yard setback regulations.

**LOCATION:** 1520 Olympia Drive

**APPLICANT:** Winfield Moore  
Represented by Chris Bowers

**REQUEST:**

A request for a variance to the front yard setback regulations of 11' 3" is made to construct and maintain a "ventless firebox" and "planter/retaining wall" structures on a property developed with a single family home, which, according to the submitted revised site plan, would be located as close as 20' 3" from the front property line or as much as 11' 3" into the 31' 6" front yard setback.

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted revised site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots zoned CD 13 given its irregular shape and restrictive area with approximately 6,000 square feet in a zoning district where lots are typically 7,500 square feet. These physical site constraints preclude the applicant from developing it in a manner commensurate with development found on other similarly zoned CD 13 properties that are rectangular in shape and with the typical 7,500 square feet in area.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that the total living area/additional improvements on the subject site at approximately 3,400 square feet is commensurate to that what is found on 14 other properties in the same CD 13 zoning district with approximately 4,400 square feet.
- Granting the variance would not be contrary to public interest if the Board imposes the submitted revised site plan as a condition since the features on this plan represent the only new structures to be located in the front yard setback is an approximately 20 square foot “ventless firebox” structure and “planter/retaining wall” structure – structures located farther from the front property line than the existing nonconforming single family home structure on the site.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CD 13 (Conservation District)  
North: CD 13 (Conservation District)  
South: CD 13 (Conservation District)  
East: CD 13 (Conservation District)  
West: CD 13 (Conservation District)

**Land Use:**

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

### **Zoning/BDA History:**

1. BDA167-009, Property located at 1545 W. Colorado Boulevard (two lots west of the subject site)

On January 17, 2017, the Board of Adjustment Panel A granted a request for variance to the front yard setback regulations of 74' 7", and imposed the submitted site plan as a condition to the request.

The case report stated that the request was made to construct and maintain a fountain structure and fence on a property developed with a single family home, which, according to the submitted site plan, would be located 5' from one of the site's two front property lines (Olympia Drive) or 69' 5" into the 74' 7" Olympia Drive front yard setback.

2. BDA056-224, Property located at 1541 W. Colorado Boulevard (the lot west of the subject site)

On October 17, 2006, the Board of Adjustment Panel A granted requests for variances to the front yard setback regulations of 19' and to the off-street parking regulations of 14', and imposed the submitted site plan as a condition to both requests, and additionally imposed the following conditions to the parking variance: an automatic garage door must be installed and maintained in working order at all times; and at no time may the area in front of the garage be utilized for the parking of vehicles. The case report stated that the requests were made to construct a detached accessory garage structure on a site developed with a single family use.

### **GENERAL FACTS /STAFF ANALYSIS:**

- The request for variance to the front yard setback regulations of 11' 3" focuses on constructing and maintaining an approximately 21 square foot "ventless firebox" structure and "planter/retaining wall" structure on the site developed with a single family use/structure, which, according to the submitted revised site plan, would be located as close as 20' 3" from the front property line or as much as 11' 3" into the 31' 6" front yard setback.
- The subject site is zoned CD 13.
- CD 13 states that the minimum front yard must equal the average of the front yards of the houses on contiguous lots.

- The submitted revised site plan existing and proposed structures in the 31' 6" front yard setback – an existing structure that is as close as 17' 7" from the front property line, and a "new 36" tall planter/retaining wall" structure as close as 20' 3" from the front property line.
- According to DCAD records, the "main improvement" at 1520 Olympia Drive is a structure built in 1927 with 2,791 square feet of living/total area; and with "additional improvements" listed as a 400 square foot detached garage, a 230 square foot outbuilding, and an 8 square foot storage space.
- Prior to the creation of CD 13 in 2005, the subject site and surrounding properties had been zoned R-7.5(A) where the front yard setback is 25 feet.
- Because records show that the main improvement/structure on this site was built in the 1920's, it is assumed that the part of the existing structures on the site (house and garage) in the 31' 6" front yard setback are nonconforming structures.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The submitted revised site plan represents that the front yard setback is 31.5' or 31' 6" and that the closest new/proposed structure to be located in the front yard setback is the "new 36" tall planter/retaining wall" structure located 20' 3" from the front property line.
- The applicant's request for variance to the front yard setback regulations is only made to located and maintain new structures (firebox and planter/retaining wall structures) in the front yard setback, and not to remedy the existing nonconforming structures (house and garage) in the front yard setback.
- The applicant submitted a comparison table of 14 other nearby properties that appear to be in CD 13. This table represents that the living area and additional improvements on the site is approximately 3,400 square feet while the average of the other 14 living area/additional improvements is approximately 4,400 square feet. The comparison table represents that the subject site is the smallest in area of the other 14 properties.
- The site is generally flat, slightly irregular in shape, and according to the application is 0.1387 acres (or approximately 6,000 square feet) in area. Prior to the creation of CD 13 in 2005, the subject site and surrounding properties had been zoned R-7.5(A) where the typical lot size is 7,500 square feet.
- 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 to front yard setback regulations are 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 CD 13 zoning classification.
- The variance to front yard setback regulations 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 CD 13 zoning classification.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted revised site plan, the structures in the front yard setback would be limited to that what is shown on this plan – new structures that are located as close as 20’ 3” from the front property line.
- Note that the applicant is aware that granting the request for a variance to the front yard setback regulations will not provide any relief to the existing nonconforming structures in the this (or any other) required setback since the applicant did not request that the Board consider this aspect as part of this application for a request for a variance to the front yard setback regulations.

**Timeline:**

January 23, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 12, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 12, 2018: The Board Administrator emailed the applicant’s representative the following information:

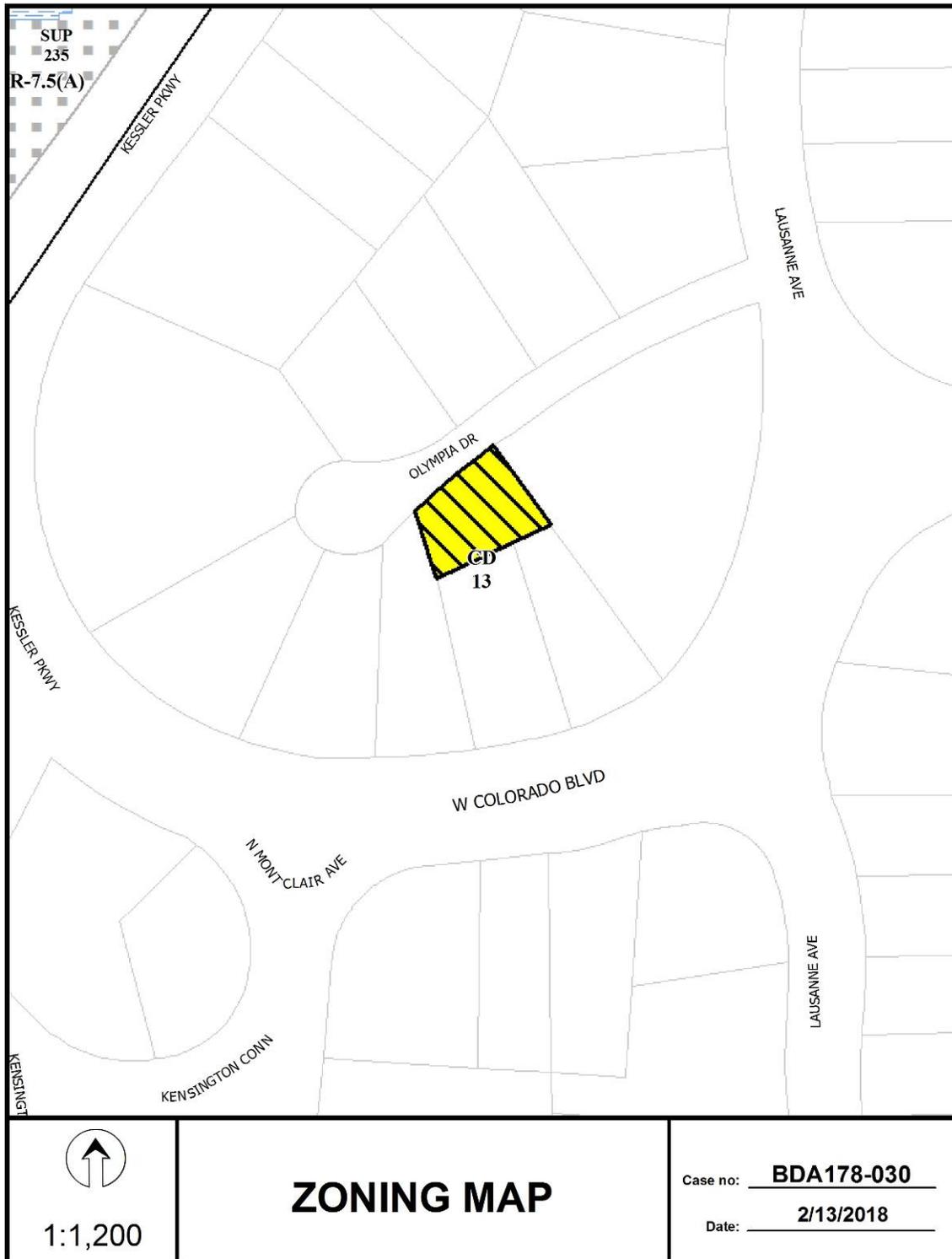
- an attachment that provided the public hearing date and panel that will consider the application; the February 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

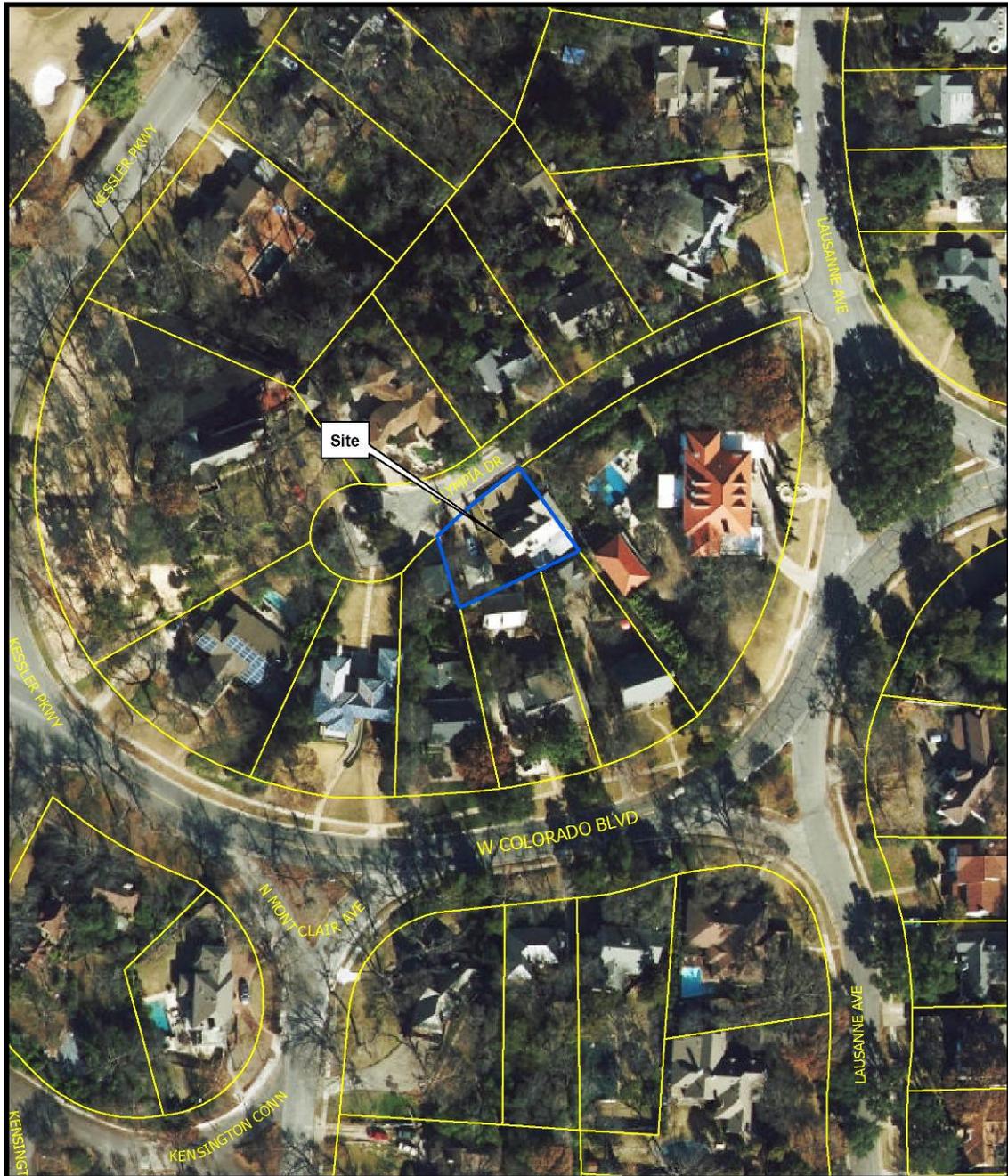
February 15 & 28,  
2018

The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A, B and C).

March 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, 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.





1:1,200

# AERIAL MAP

Case no: BDA178-030

Date: 2/13/2018



BDA178-030

Attch B

PS1

Exhibit F

Comparison of Nearby Properties to 1520 Olympia Drive

ADDRESS/LOT	LIVING AREA in SQR FEET	ADDITIONAL IMPROVEMENTS	ADDITIONAL IMPROVEMENTS SQFT	LOT SIZE in SQR FEET	NONCONFORMING STRUCTURES FYSBS
1520 Olympia Drive/Lot 27	2791	Detached garage, deck, closet	638	6045	House and Garage, proposed firebox/planter
1177 Lausanne/Lots 1,2,3,28	6358	Basement, Detached garage, pool, attached quarters, attached carport	2556	36,270	Brick Fences, Front Yard Fountain (re-built in FYSB)
1527 W Colorado Blvd/Lot 4	2240	Detached garage	400	8950	
1533 W Colorado Blvd/Lot 5	3349	Detached garage, attached quarter	1344	10695	
1541 W Colorado Blvd/Lot 6	2440	Room addition and enclosed patio	549	10463	
1545 W Colorado Blvd/Lot 7	4483	Detached quarters, attached garage	748	12439	Garage; Variance was granted for FYSB and parking on Olympia Drive Variance granted for FYSB for exterior structure on Olympia Drive and fountain
1525 Olympia Drive/Lots 9 and 11	3064	Detached quarters, detached garage, enclosed patio	1096	42548 (two parts)	Garage on side
1523 Olympia Drive /Lot 24	2491	Enclosed garage	400	10811	
1517 Olympia Drive/Lot 25	1760	Attached garage	276	11509	
1511 Olympia Drive/Lot 26	2850	Detached garage and outbuilding	1600	13600 (two parts)	
1203 Lausanne/Lot 22	4708	Basement	1286	16043	
1209 Lausanne/Lot 23	4586	Attached garage	605	18250	

7

Comparison of Nearby Properties to 1520 Olympia Drive

ADDRESS/LOT	LIVING AREA in SQR FEET	ADDITIONAL IMPROVEMENTS	ADDITIONAL IMPROVEMENTS SQFT	LOT SIZE in SQR FEET	NONCONFORMING STRUCTURES FYBSBS
1234 Lausanne/Block 10- Lot 8	3356	Detached garage and room addition	882	14560	Possibly the house/garage on the West side
1212 Lausanne Block 10-Lot 1	2949	Detached garage	480	15258	Possibly the house/garage on the East side
1414 W Colorado Blvd/Block 6-Lot 21	4502	Detached garage and pool	1506	19530	
Average Sqr Ft	3461.80		957.73		

Minimum Lot size prior to Kessler Park CD ORD was 7500 square feet for R-7.5 (A)

Minimum Lot size 9000 sqr feet after CD ORD #25984 in 2005

\*The front yard setback of 1520 Olympia increased from 25' in R-7.5 to 31.6' due to the Kessler CD ordinance.

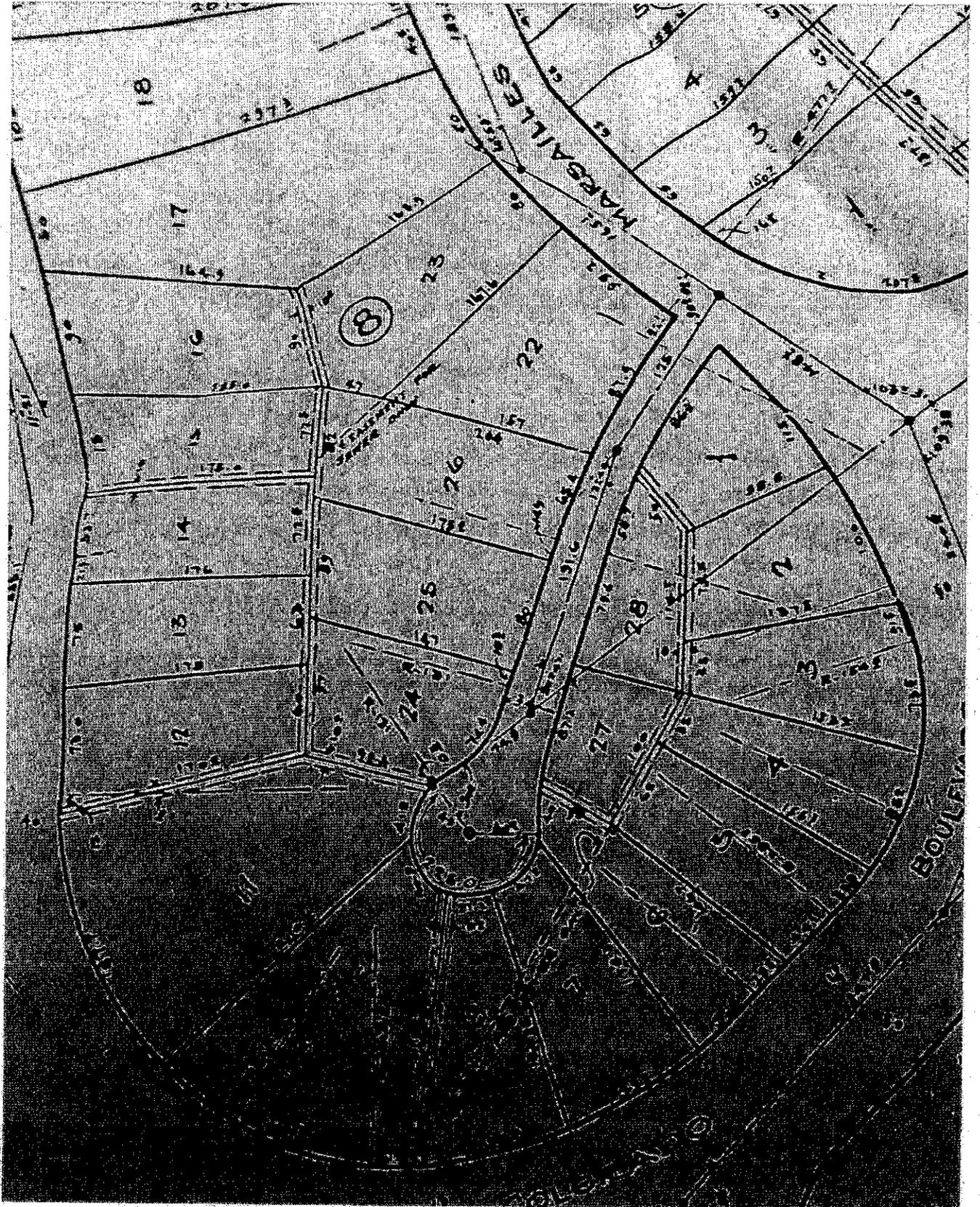
\*Statistical Data provided by DCAD

BDA 178-030

Attach B

PS 4

M



The following websites provide information from various sources regarding the history of Kessler Park.

<https://kesslerneighborsunited.org/history/>

Please note paragraph four (4) which references the irregular shape with large lots and winding and circular streets (2018). Retrieved February 28, 2018, Kessler Neighbors United website:

<https://kesslerneighborsunited.org/history/>

<http://www.preservationdallas.org/resources/discover-dallas/kessler-park/>

Please note paragraph three (3) sentence three (3) regarding the fact that curved street and irregular shaped lots were purposely created in order to maintain the hilly terrain (2018).

Retrieved February 28, 2018, Preservation Dallas website:

<http://www.preservationdallas.org/resources/discover-dallas/kessler-park/>

<https://hewitthabgood.com/kesslerpark>

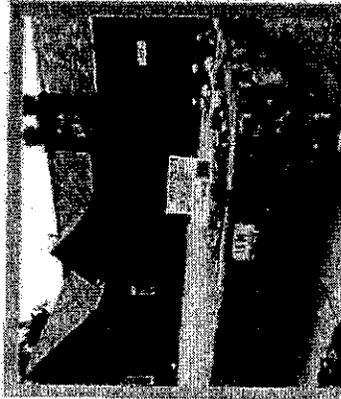
Please note paragraph three (3) sentences two (2) and three (3) regarding the wide range of homes and lot sizes (2017). Retrieved February 28, 2018, Hewitt & Habgood website:

<https://hewitthabgood.com/kesslerpark>

# Petition in Support of the Request for a Variance from the Front Yard Setback at 1520 Olympia

I am familiar with the property at 1520 Olympia, the neighboring properties, and the request for a variance from the front yard setback regulation for 1520 Olympia. I have met with at least one of the owners of 1520 Olympia and have had an opportunity to discuss and ask questions about the request. I believe that, due to the small and irregular size and shape of the property, the Dallas Board of Adjustment should grant the request.

Print name	Print address	Signature
1. SANTIAGO SALINAS	1527 W. COLORADO BLVD.	<i>[Signature]</i>
2. ROBERT KUCHARSKI	1207 N. WINDOMERE	<i>[Signature]</i>
3. BERT SOLTUCH	1215 N. WINDOMERE	<i>[Signature]</i>
4. KAREN SOLTUCH	1215 N. WINDOMERE	<i>[Signature]</i>
5. Chad Balch	1211 N Windomere	<i>[Signature]</i>
6. Jason Graves	1211 N Windomere	<i>[Signature]</i>
7. John Vroman	1214 BELLEAU DRIVE	<i>[Signature]</i>
8. Amy Anderson	1545 W. Colorado Blvd	<i>[Signature]</i>
9. Mark Anderson	1545 V. Colorado Blvd	<i>[Signature]</i>
10. Shelbi Barnhouse	1533 W. Colorado Blvd.	<i>[Signature]</i>
11. Scott Dugger	1511 Olympia Dr.	<i>[Signature]</i>
12. Jen Ryan	1517 Olympia Drive	<i>[Signature]</i>

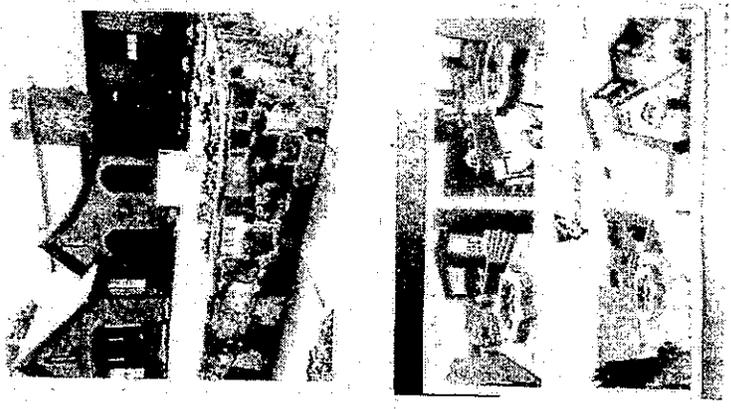


BDA178-030  
Attach C  
p. 1

# Petition in Support of the Request for a Variance from the Front Yard Setback at 1520 Olympia

I am familiar with the property at 1520 Olympia, the neighboring properties, and the request for a variance from the front yard setback regulation for 1520 Olympia. I have met with at least one of the owners of 1520 Olympia and have had an opportunity to discuss and ask questions about the request. I believe that, due to the small and irregular size and shape of the property, the Dallas Board of Adjustment should grant the request.

Print name	Print address	Signature
1. Claire Markon	1523 Olympia Dr.	Claire Markon
2. Sheila B. Rice	4516 Goodfellow Dr	Sheila B. Rice
3. Devin Markon	1523 Olympia Dr.	Devin Markon
4. Andrea Sample	1939 W. Colorado	Andrea Sample
5. Caroline Buttenworth	4923 W. Hanover	Caroline Buttenworth
6. Ann Melnick	2316 Kessler Pk	Ann Melnick
7. Olga Salinas	2316 Kessler Pk	Olga Salinas
8. Rhonda Dugger	1511 Olympia	Rhonda Dugger
9. Cindy Carpenter	1541 W. Colorado Blvd	Cindy Carpenter
10. Karl Stundins	1517 OLYMPIA DR	Karl Stundins
11. Jacob Kearns	1214 Belleso Drive	Jacob Kearns
12. Kathy Hewitt	1410 Yakima Dr.	Kathy Hewitt



BDA178-030  
Attach C  
PS 2



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-030

Data Relative to Subject Property:

Date: 1-23-18

Location address: 1520 Olympia Drive Dallas Zoning District: CD13 (Subarea 4)

Lot No.: 27 Block No.: 8/3826 Acreage: .1387 Census Tract: 44.00

Street Frontage (in Feet): 1) 87.2 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Winfield Moore

Applicant: Winfield Moore Telephone: 214.642.1733

Mailing Address: 1520 Olympia Drive Dallas Zip Code: 75208

E-mail Address: winfredmoore@yahoo.com

Represented by: Chris Bowers Telephone: 214.202.9265

Mailing Address: 1800 Valley View Ln Ste. 360 Famous Branch Zip Code: 75234

E-mail Address: chris@mikloslegal.com

Affirm that an appeal has been made for a Variance [checked] or Special Exception, of 11' 3" to the minimum 31' 6" front yard set back required by section 36(x)(1)(A) of the Kessler Park Conservation District Ordinance to authorize construction of a proposed ventless firebox (see Exhibit D) and retaining wall.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

Due to the extremely restrictive area (size) and restrictive and irregular shape of the lot in comparison to contiguous and neighboring lots, we are unable to develop our property in a manner commensurate with the other properties with the same zoning classification.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

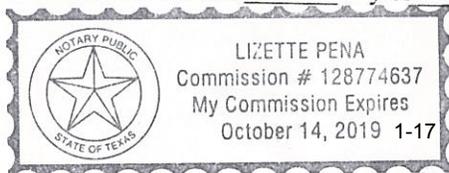
Affidavit

Before me the undersigned on this day personally appeared Winfred Moore (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

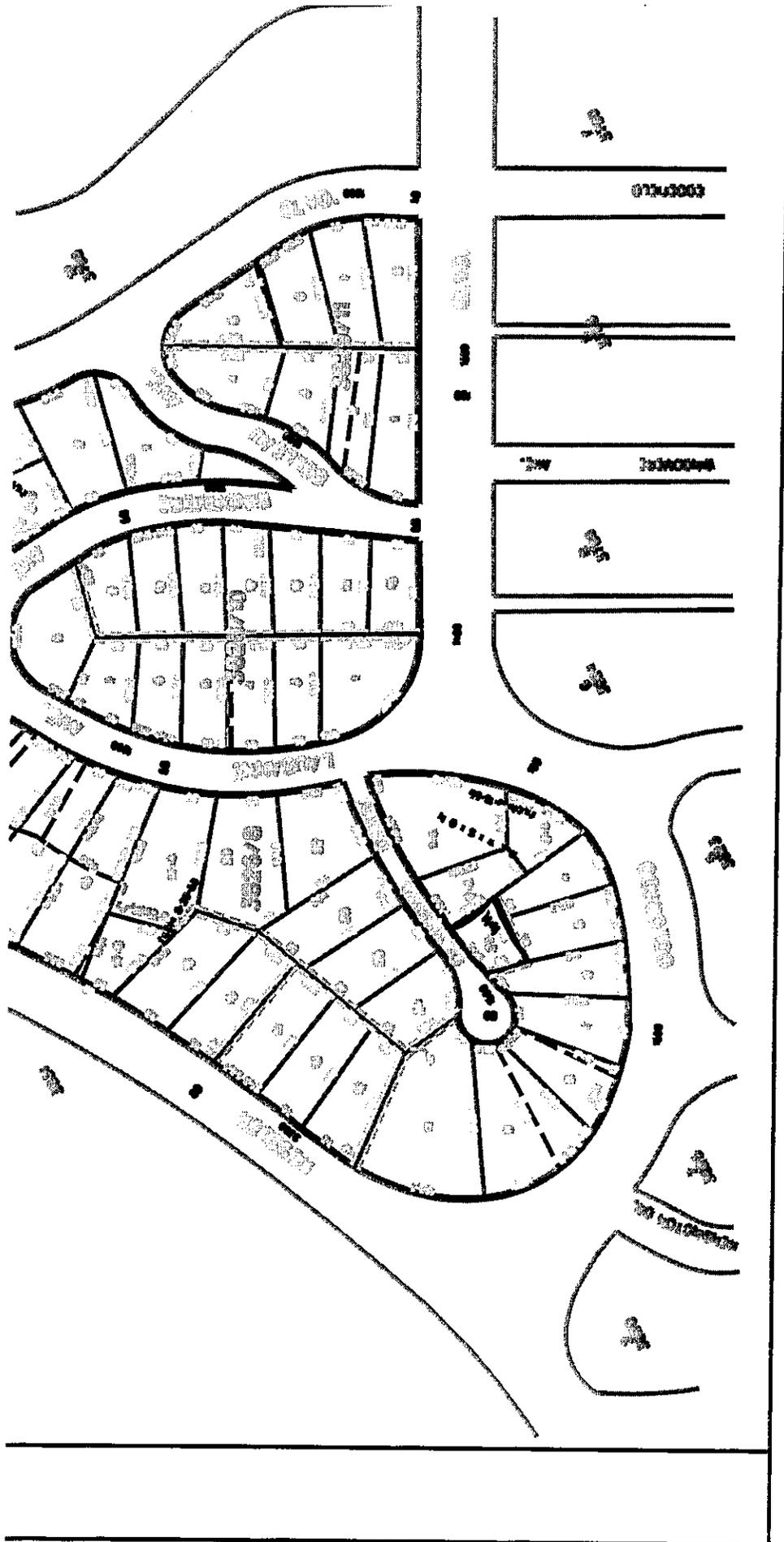
Respectfully submitted: [Signature] (Affiant/Applicant's signature)

Subscribed and sworn to before me this 23rd day of January, 2018



[Signature] Notary Public in and for Dallas County, Texas







## **Application/Appeal to the Board of Adjustments**

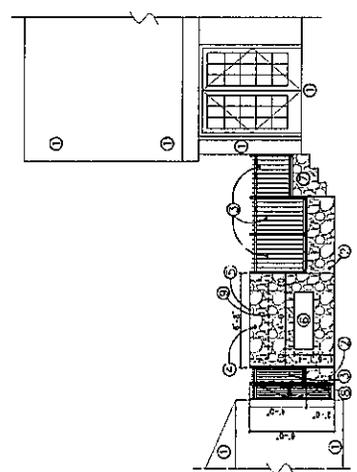
Affirm that an appeal has been made for a variance of: 11'3" to the minimum 31'6" front yard setback required by Section 3(u)(1)(A) of the Kessler Park Conservation District ordinance to authorize construction of a proposed ventless firebox and retaining wall.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason(s):

Due to the extremely restrictive area (size) and restrictive and irregular shape of the lot in comparison to contiguous and neighboring lots, we are unable to develop our property in a manner commensurate with the other properties with the same zoning classification.



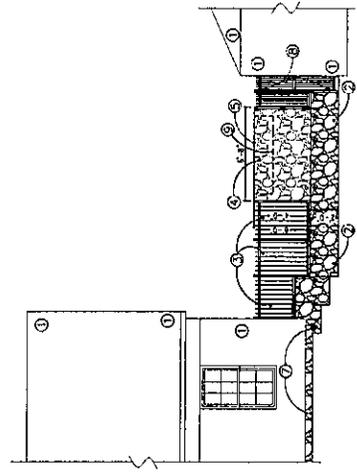
1 2 3 4 5 6 7 8 9 10



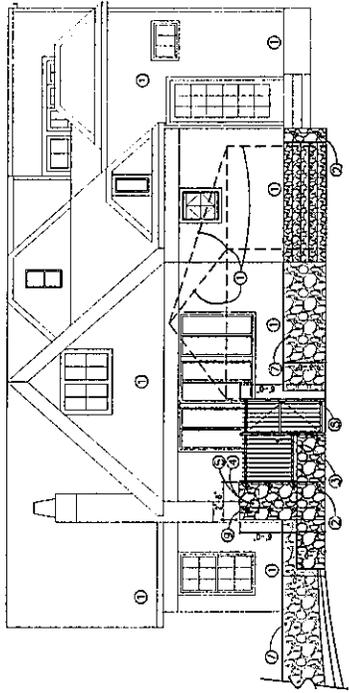
02 A2.2 NORTH EAST ELEVATION @ NEW EXTERIOR FIREBOX  
Scale: 1/4"=1'-0"

ELEVATION KEY NOTES

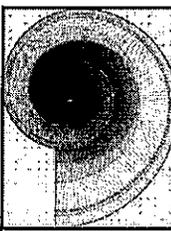
- 1 EXISTING STRUCTURE TO REMAIN
- 2 NEW STONE AND PAVER FIREBOX OR WALL TO MATCH EXISTING STONE OR PROPERTY
- 3 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 4 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 5 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 6 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 7 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 8 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY
- 9 NEW STONE FINISH TO MATCH EXISTING STONE OR PROPERTY



02 A2.2 SOUTH WEST ELEVATION @ NEW EXTERIOR FIREBOX  
Scale: 1/4"=1'-0"



01 A2.2 SOUTH EAST ELEVATION @ NEW EXTERIOR FIREBOX  
Scale: 1/4"=1'-0"



**Andrew Shell, AIA**  
Interior and Residential Design  
517 Hoel Drive Suite 100  
Dallas, Texas 75224-1403  
ashell@aarchitect.com  
www.ashellarchitect.com



Residential Renovation/ Addition for  
**Mr. Dale Miner &  
Mr. Winitold Moore**  
1570 Olympia  
Dallas, Texas 75208  
Kessler Park Neighborhood  
Contract

**CITY REVIEW ISSUE**

NO.	DATE	BY	FOR
1	11/11/11	AS	1570 OLYMPIA
2	11/11/11	AS	1570 OLYMPIA
3	11/11/11	AS	1570 OLYMPIA
4	11/11/11	AS	1570 OLYMPIA
5	11/11/11	AS	1570 OLYMPIA
6	11/11/11	AS	1570 OLYMPIA
7	11/11/11	AS	1570 OLYMPIA
8	11/11/11	AS	1570 OLYMPIA
9	11/11/11	AS	1570 OLYMPIA
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13	11/11/11	AS	1570 OLYMPIA
14	11/11/11	AS	1570 OLYMPIA
15	11/11/11	AS	1570 OLYMPIA
16	11/11/11	AS	1570 OLYMPIA
17	11/11/11	AS	1570 OLYMPIA
18	11/11/11	AS	1570 OLYMPIA
19	11/11/11	AS	1570 OLYMPIA
20	11/11/11	AS	1570 OLYMPIA

**SITE ELEVATIONS**

Sheet No. 1022  
Date: 11/11/11  
Scale: 1/4"=1'-0"  
Project No. 1022  
City: Dallas, TX  
Client: AS  
Drawn By: AS  
Check By: AS  
Title: A2.2

ALL DRAWINGS AND DIMENSIONS ARE TO BE CHECKED AND APPROVED BY THE ARCHITECT AND THE CONTRACTOR BEFORE PROCEEDING TO CONSTRUCTION. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE ACCURACY OF ALL DIMENSIONS AND MATERIALS SHOWN ON THESE DRAWINGS.

# Exhibit A

**Subject:** Fw: 1520 Olympia Drive Set backs  
**From:** winfield moore (winfieldmoore@yahoo.com)  
**To:** winfieldmoore@yahoo.com; daleminer@yahoo.com;  
**Date:** Sunday, June 4, 2017 5:52 PM

\* See page 3

----- Forwarded Message -----

**From:** Lindsay Bender <LBender@jcaldwellcustompools.com>  
**To:** winfield moore <winfieldmoore@yahoo.com>  
**Sent:** Monday, February 27, 2017 12:01 PM  
**Subject:** FW: 1520 Olympia Drive Set backs

Here is what they sent. Look it over and let me know if you feel like we need to meet with Todd or you understand everything through the attachments.

Thank You,

Lindsay Bender

Sales/Design Consultant  
 817-929-7315

5744 Boat Club Road Suit 200  
 FTW, TX 76179

**From:** Duerksen, Todd [mailto:todd.duerksen@dallascityhall.com]  
**Sent:** Monday, February 27, 2017 11:37 AM  
**To:** Lindsay Bender <LBender@jcaldwellcustompools.com>  
**Cc:** Hersch, William <william.hersch@dallascityhall.com>  
**Subject:** RE: 1520 Olympia Drive Set backs

The Board of Adjustment hears appeals to the zoning ordinances. Appeals to setback requirements are filed as variances. No case sets a precedence. I have attached the Board of Adjustment appeal instructions and application for your review and use. You will state a front yard setback variance appeal on the application as in the example below.

"Affirm that an appeal has been made for a Variance X , or ~~Special Exception~~    , of ? feet to the required ? foot front yard setback."

In the next section on the application you will explain to the board why the setback variance is needed in order to overcome a property hardship of a restrictive area, shape, or slope, so as to allow development of your property commensurate with other properties of the same zoning, as outlined at the bottom of page 3 of the instructions for a variance. Do not write on the back of the application.

Please contact me or come in to the office to see me if you have any questions. I am normally available Mon-Fri, 8am-4pm.

Todd Duerksen  
Sr. Plans Examiner - Zoning Code Consultant  
City of Dallas  
Building Inspection Division  
Department of Sustainable Development & Construction  
Oak Cliff Municipal Center  
320 E. Jefferson Blvd., Rm. 105

---

**From:** Hersch, William  
**Sent:** Monday, February 27, 2017 11:29 AM  
**To:** Lindsay Bender  
**Cc:** Duerksen, Todd  
**Subject:** RE: 1520 Olympia Drive Set backs

For sure! I have copied Todd Duerksen, our Board of Adjustment liaison on this email. He should be able to fill you in what is required for the variance, scheduling, and fees.

Thanks!

---

**From:** Lindsay Bender [<mailto:LBender@jcalldwellcustompools.com>]  
**Sent:** Monday, February 27, 2017 11:16 AM  
**To:** Hersch, William  
**Subject:** RE: 1520 Olympia Drive Set backs

Hi Bill,

Thank you for your time and research. I hate to hear that but understand there is a lot to cover.

My customers would like to go ahead with the variance process. Please let me know what that takes and what we need to do if you don't mind.

Thank You,

Lindsay Bender

Sales/Design Consultant  
817-929-7315

5744 Boat Club Road Suit 200  
FTW, TX 76179

---

**From:** Hersch, William [<mailto:william.hersch@dallascityhall.com>]  
**Sent:** Monday, February 27, 2017 10:07 AM  
**To:** Lindsay Bender <[LBender@jcalldwellcustompools.com](mailto:LBender@jcalldwellcustompools.com)>  
**Subject:** RE: 1520 Olympia Drive Set backs

Lindsay,

I spoke with Todd Duerksen, our Board of Adjustment liaison and zoning guru, about this situation. We went over the surveys and the ordinance requirements and it appears that you might have a bit of an issue. First, I have to apologize for getting you some misguided information. Per Ord. 25984 (30(u)(1)(A), "The minimum front yard must equal the average of the front yards of the houses on contiguous lots", which differs a bit from other CD zoning districts. So the front yard setback of your lot must be based on the house setback, not any other structure. Because the house at Lausanne has two frontages, we would use the shorter frontage of that house. Unfortunately, I cannot make out the numbers in the survey, so the closest point of the house at Lausanne to the street (either

from Lausanne or Olympia) is what we would use. The survey for the lot on the other side just shows the accessory structure, but we would take the front yard setback for this lot to be the portion of the house closest to either Olympia or to W Colorado, whichever is less. Unfortunately, it sounds like you will most likely need to go before the Board of Adjustment in order to receive a front yard setback variance for your lot. **Because of the restrictive size of your lot, you have an extremely good chance of receiving this variance.** If this is something you guys want to go for, just let me know and we can set up a meeting with Todd and Myself to discuss the process going forward. Hope this clears up a bit and again, I apologize for getting you inaccurate information.

Thanks,  
Bill

---

**From:** Lindsay Bender [mailto:[LBender@jcalldwellcustompools.com](mailto:LBender@jcalldwellcustompools.com)]  
**Sent:** Friday, February 24, 2017 9:25 AM  
**To:** Hersch, William  
**Subject:** 1520 Olympia Drive Set backs

Hi Bill,

I hope you are having a great week. I wanted to touch base with you on the project that I met with you about last week. I have attached his surveys from each neighbor and I just want to make sure I have everything correct so we are all on the same page.

The neighbor on Lausanne has the fountain on the actual property line (not sure if I would use 0 as their measurement from the street to a structure?)

The neighbor that has the garage on the Olympia Drive side is 7.4' from property to the garage.

So if I take neighbor 1 (0) plus neighbor 2 (7.4) = 7.4 divided by 2 = 3.7'

Is this correct for my front set back on 1520 Olympia Drive?

I know I still have the back setback for the fire feature if the customer wants to do that or get a variance.

Again, thank you so much for your help. We greatly appreciate it and your timely manner. I hope your Friday is great!!!

Thank You,

Lindsay Bender

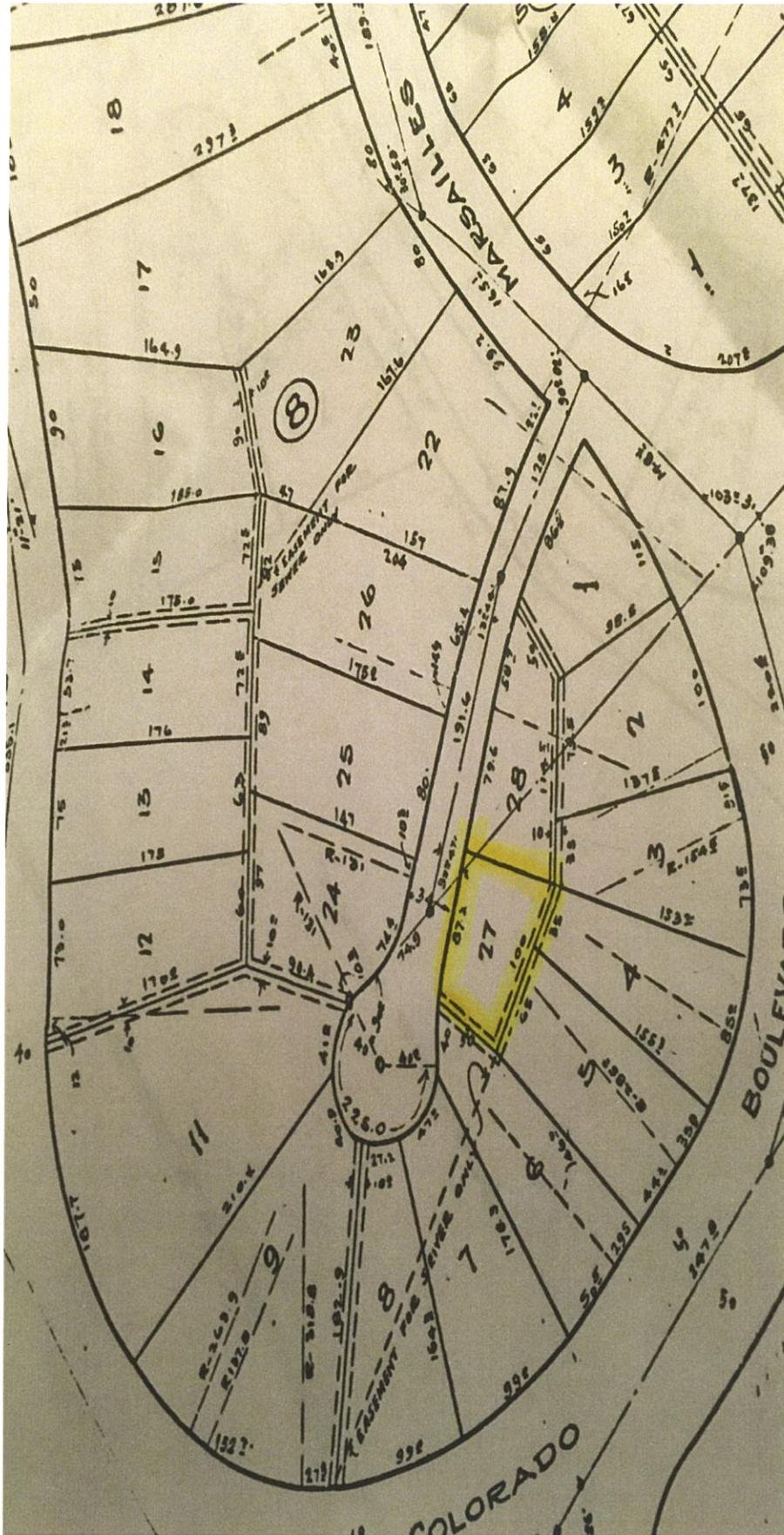
Sales/Design Consultant  
817-929-7315

5744 Boat Club Road Suit 200  
FTW, TX 76179

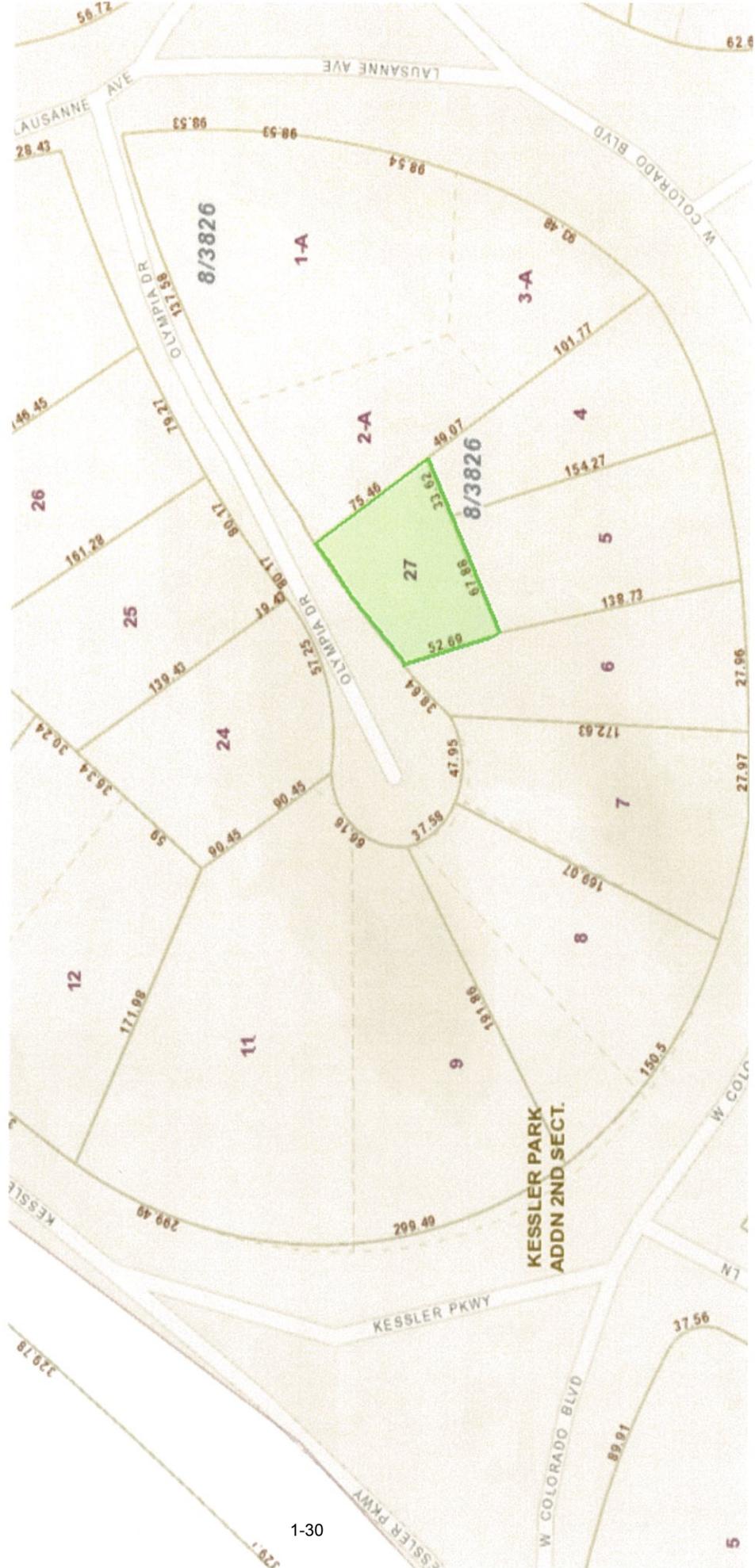
**From:** scanner  
**Sent:** Friday, February 24, 2017 9:17 AM  
**To:** Lindsay Bender <[LBender@jcalldwellcustompools.com](mailto:LBender@jcalldwellcustompools.com)>  
**Subject:** Attached Image

# Exhibit B

# Original Plat map of area near 1520 Olympia



# Current Plat map of area near 1520 Olympia



# 1520 Olympia Drive Facts

## Setbacks

- The 2005 Kessler Park CD ordinance provides that the front yards of the houses on the contiguous lots are averaged to determine the minimum front yard setback
- The houses on the two lots contiguous to 1520 Olympia have front yards of 37' and 26'.
- The home at 1520 Olympia was built in 1927 and is 13'11" within the front yard setback of 31'6"

## Lot sizes

- The Kessler Park CD ordinance requires minimum lot size of 9,000 SF
- Lot size of 1520 Olympia is 6,045 SF (smallest out of about 800 in Kessler Park CD)
- The lot sizes of the two contiguous properties are 10,462 SF and 36,270 SF

# 1520 Olympia Drive Facts

## Lot depths

- The lot depths of 1520 Olympia are:
  - 52.69' on west side
  - 75.46' on east side
- The lot depths of the two abutting properties on Olympia are much deeper
  - 191.42' on west side (1541 W. Colorado)
  - 226.3' on east side (1177 Lausanne)

## Variances needed due to unusual sizes and shapes of nearby properties

- Board granted front yard variance of 19' and granted a variance of 14' to the parking regulations for Lot 6 (1541 W. Colorado)
- Board granted front yard variance of 74'7" for Lot 7 (1545 W. Colorado)
- 1177 Lausanne would need front yard variances for fence and fountain if they were to be built today



**Lot 6: View from Olympia Dr.**

The Board granted a 19' variance from the front yard setback as per case BDA056-224 for this garage facing Olympia (see Exhibit E)

**Lot 6: View from 1541 W. Colorado Blvd.**

The Kessler Park CD ordinance provides the two abutting properties are averaged to determine front yard setbacks. This results in two big, deep lots establishing my front yard setback even though my property is much smaller and narrower than either abutting property.



**Lot 7: View from Olympia Dr.**

The Board granted a 74' 7" variance from the front yard setback during 2017 as per case BDA167-009 for this "solid gate" facing Olympia. (see Exhibit E)



**Lot 7: View from 1545 W. Colorado Blvd.**

This lot is much larger than my 6045 square foot lot



**Lots 1,2,3 and 28: View from Lausanne Ave.**

Property includes Lots 1, 2, 3 and 28 on original plat. Large fountain is in the front yard setback, but apparently is grandfathered



**Lot 28: View from Olympia Dr.**

Fence is on property line and thus in front yard setback of Lot 28. Fence is 8 feet high at man-made built up grade of 3 feet. At 11 feet high from street level, fence violates "height looming" provision in Kessler Park CD ordinance, but apparently is grandfathered.



**Lot 27: View of  
1520 Olympia Dr.**

Photo shows existing front yard, including retaining wall and 6' fence on side yard. The firebox and matching retaining wall are proposed for the area on the right side of the photo.



**Lot 27: 1520 Olympia Dr.**

Photos show existing 6' iron fence.  
We plan to retain as much of the  
fence as possible.



### **View of Olympia Drive**

Photo taken from 1545 W. Colorado Blvd. facing East. Photo shows home at 1520 Olympia (Lot 27) is irregularly positioned and is in the front yard setback due to the small size of the lot and the two large abutting lots.

# Exhibit C



BDA178-030

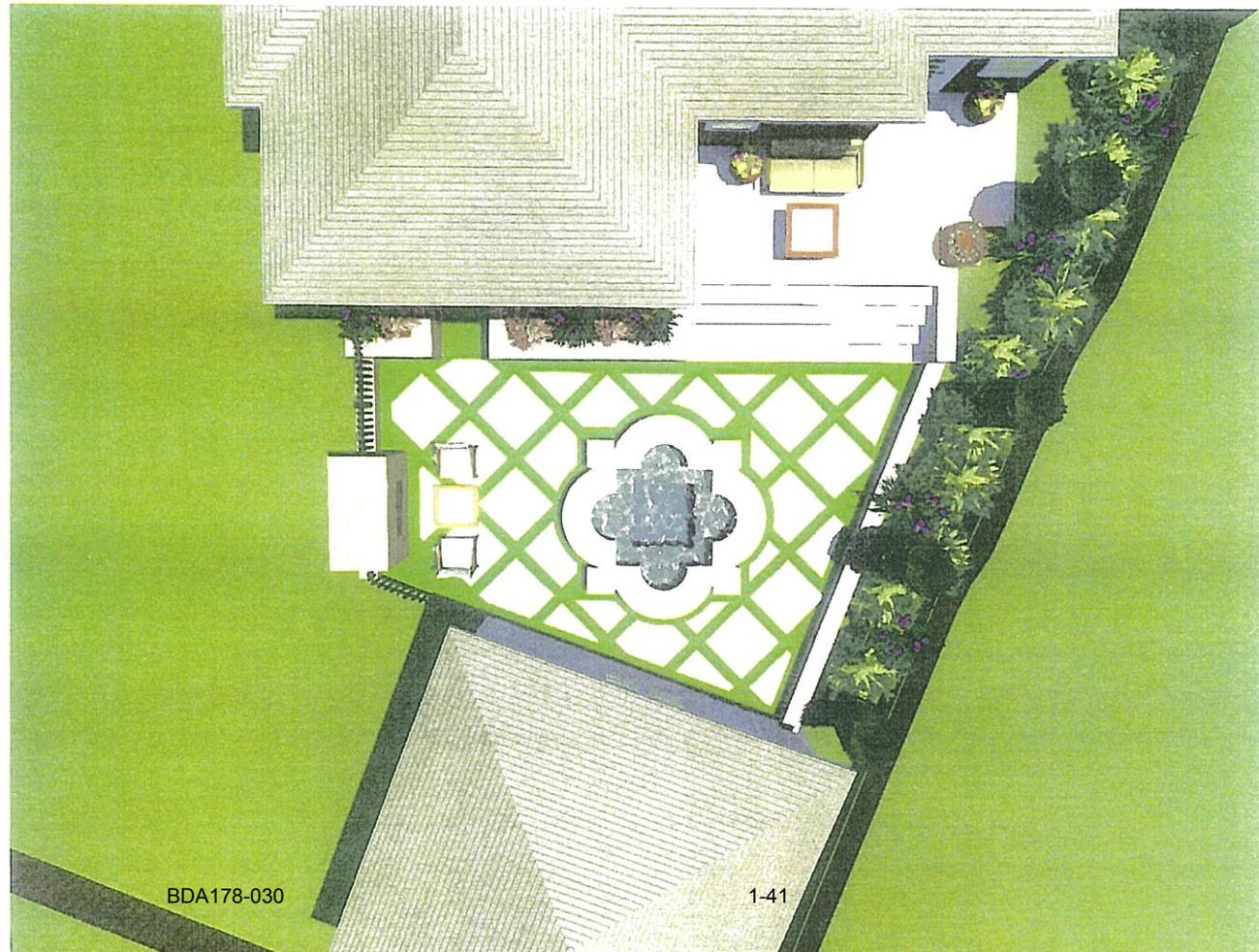
**J. Caldwell**  
**CUSTOM POOLS**  
*Where Construction Meets Customer Service™*  
**817-237-7665**



1-40



2



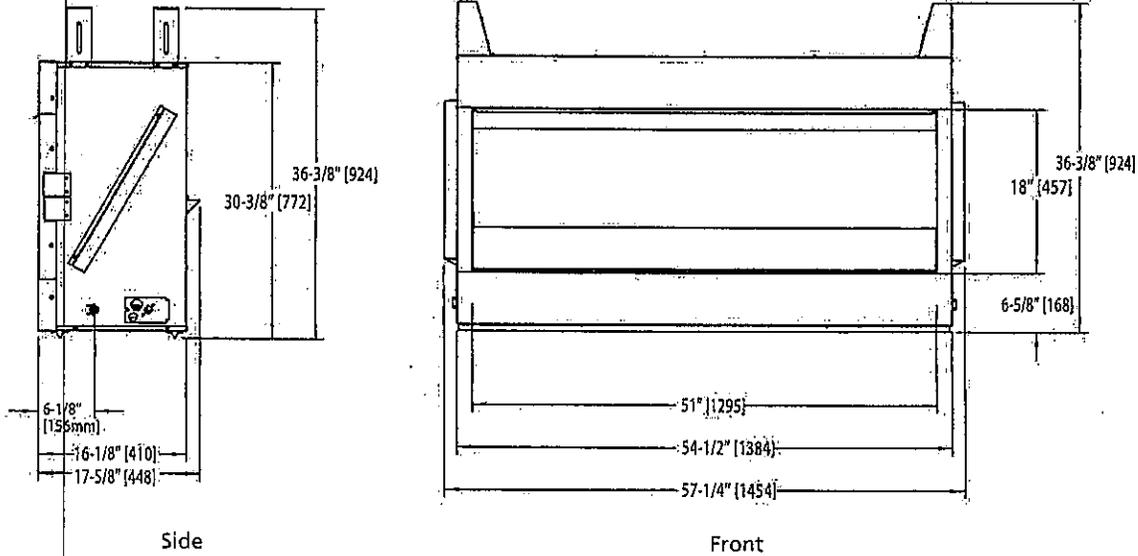
## Exhibit D



Please consult the manufacturer's installation manual for all details and requirements before making a final design layout decision.

### Lanai Outdoor Gas Fireplace

MODEL	FRONT WIDTH		BACK WIDTH		HEIGHT		DEPTH		VIEWING AREA
	Actual	Framing	Actual	Framing	Actual	Framing	Actual	Framing	
ODLANAIG-51	57-1/4" [1454]	57-3/4" [1467]	57-1/4" [1454]	57-3/4" [1467]	36-3/8" [924]	39-1/2" [1003]	17-5/8" [448]	17-5/8" [448]	51" x 18" [1295 x 457]



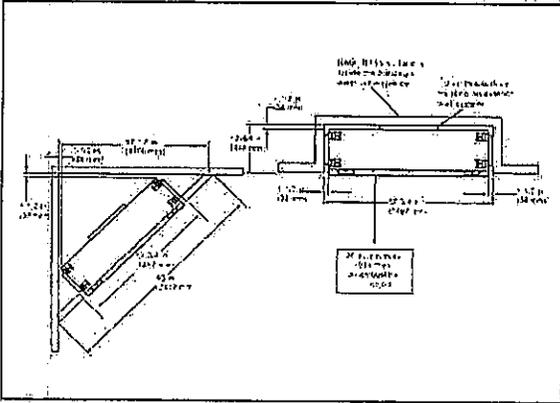
**Carol Rose "Ventless" Fireplace Enclosure (Outdoor gas fireplace):**

This model was selected due to the fact that it can be used and it does not require a tall chimney. It can be built into the retaining wall so that it is inconspicuous from the street view and blends with the existing hardscape. We did not want a chimney to distract from the historic nature of the home; therefore a ventless option is best.

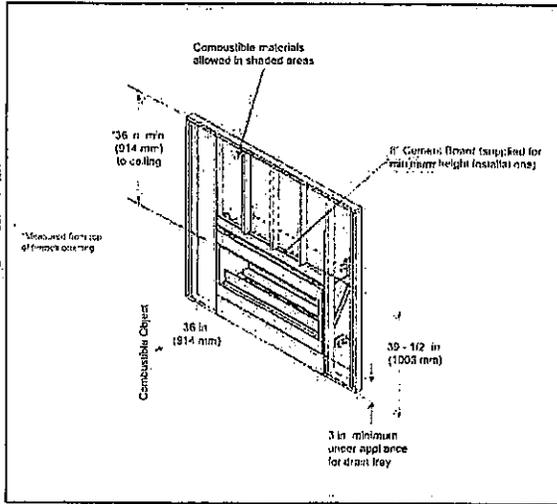
Additional information can be found online at [www.fireplaces.com](http://www.fireplaces.com)

1

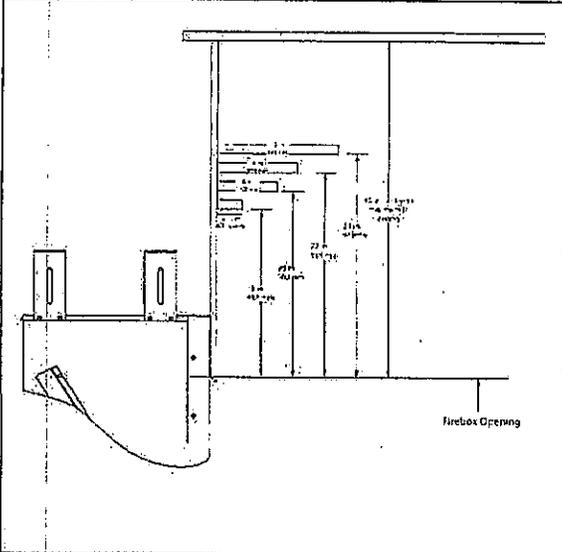
APPLIANCE LOCATION



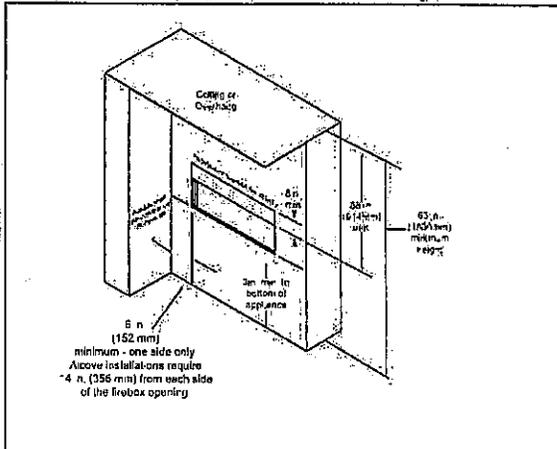
FRAMING DIMENSIONS



MANTEL PROJECTIONS



CLEARANCES TO COMBUSTIBLES



PRODUCT LISTING CODES	
US	ANSI Z21.97-2014
CAN	CSA 2.41-2014

Product information provided is not complete and is subject to change without notice. Product installation must adhere strictly to instructions accompanying product to avoid risk of fire and potential injury.

Additional information can be found online at [www.fireplaces.com](http://www.fireplaces.com)

# Exhibit E

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that

did submit a request for a variance to the front yard setback regulations, and for a variance to the parking regulations

at 1541 W Colorado

BDA056-224. Application . for a variance to the front yard setback regulations, and for a variance to the parking regulations at 1541 W COLORADO BLVD. This property is more fully described as lot 6 in city block 8/3826 and is zoned CD-13, which requires a 20 foot setback for an enclosed parking space and requires a front yard setback of 25 feet for accessory structures. The applicant proposes to construct an accessory garage and provide a 6 foot front yard setback, which would require a variance of 19 feet to the front yard setback regulations, and to construct an accessory garage and provide a 6 foot setback for an enclosed parking space, which would require a variance of 14 feet to the parking regulations.

Sincerely,

  
Ed Levine, Building Official

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

Building Official's Report

I hereby certify that

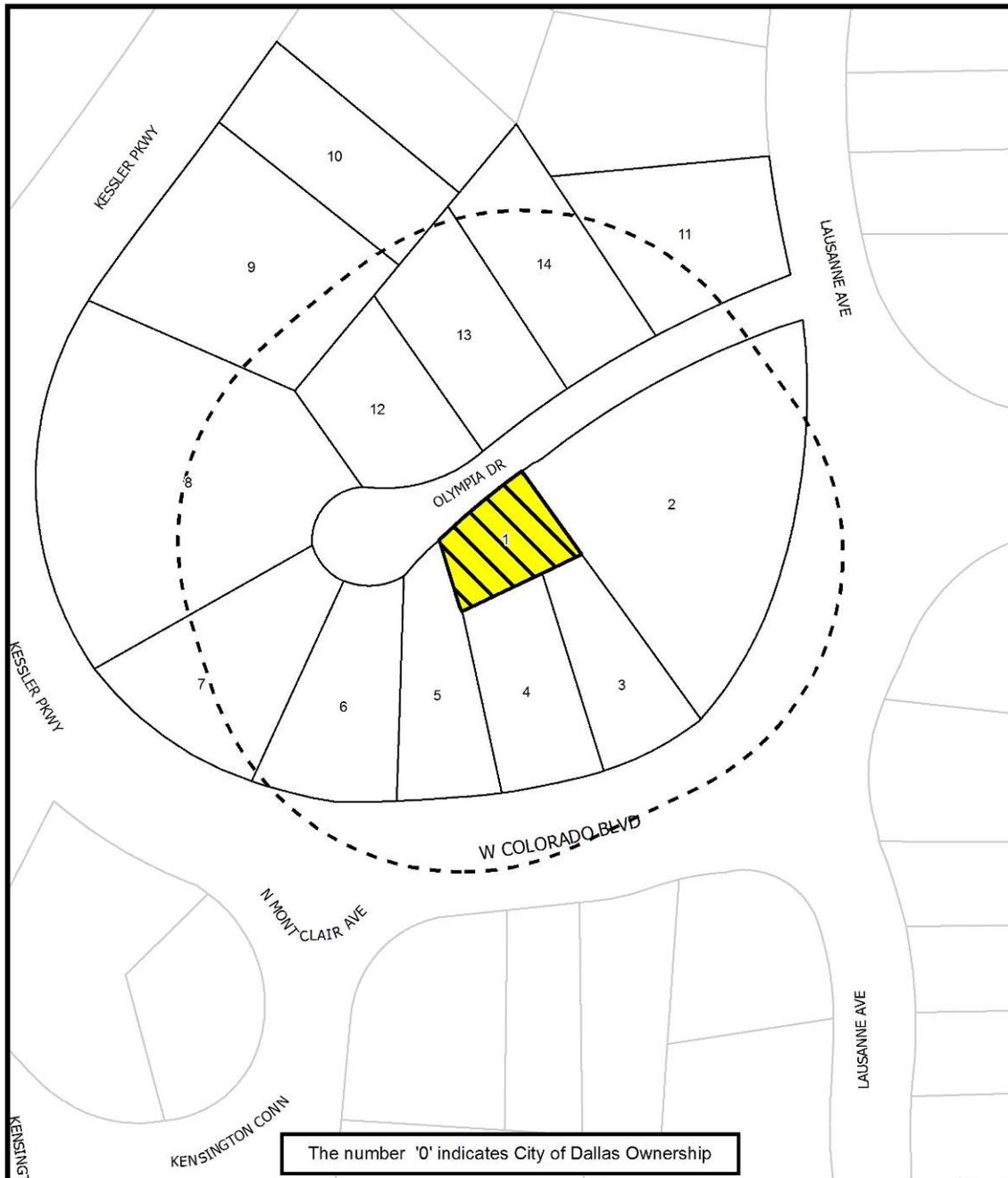
did submit a request for a variance to the front yard setback regulations

at 1545 W. Colorado Blvd.

BDA167-009. Application for a variance to the front yard setback regulations at 1545 W. Colorado Blvd. This property is more fully described as Lot 7 & part of Lot 8, Block 8/3826, and is zoned CD-13 (Subarea 1), which requires a minimum front yard setback equal to the average of the front yards of the houses on the contiguous lots. The applicant proposes to construct and maintain a single family residential structure and provide a 0 foot front yard setback, which will require a 74 foot 7 inch variance to the front yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA178-030</b>			
	<table border="1"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>14</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>14</b>	NUMBER OF PROPERTY OWNERS NOTIFIED
<b>200'</b>	AREA OF NOTIFICATION				
<b>14</b>	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

***BDA178-030***

### ***14 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	1520 OLYMPIA DR	MOORE WINFIELD &
2	1177 LAUSANNE AVE	SPANN MICHAEL G &
3	1527 W COLORADO BLVD	SALINAS SANTIAGO
4	1533 W COLORADO BLVD	SCHWEGMANN CHRISTOPHER J & SHELBI L
5	1541 W COLORADO BLVD	SMITH CYNTHIA CARPENTER
6	1545 W COLORADO BLVD	ANDERSON MARK & BETH
7	1553 W COLORADO BLVD	LINIADO MARK E & AMY
8	1525 OLYMPIA DR	GOSSARD WAYNE H
9	2322 KESSLER PKWY	ROACH PAUL ALTON & RHONDA ELAINE HARRIS
10	2316 KESSLER PKWY	MELNICK SUSAN L &
11	1203 LAUSANNE AVE	LEE GEORGE T JR & NATALIE
12	1523 OLYMPIA DR	CHARHON DEVIN DAVID &
13	1517 OLYMPIA DR	STUNDINS KARL A
14	1511 OLYMPIA DR	DUGGER SCOTT O & RHONDA

**FILE NUMBER:** BDA178-032(OA)

**BUILDING OFFICIAL'S REPORT:** Application of Eric Einsenberg, represented by Bob Mirabito, for special exceptions to the visual obstruction regulations at 10564 Lennox Lane. This property is more fully described as Lot 3, Block 2/5521, and is zoned R-1ac(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 10564 Lennox Lane

**APPLICANT:** Eric Einsenberg  
Represented by Bob Mirabito

**REQUESTS:**

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

1. Special exceptions to the visual obstruction regulations are made to maintain a 6' high stone column and to construct and maintain a 6' high open wrought iron fence with a sliding wrought iron gate in the two 20' visibility triangles on both sides of the driveway into the site from Harry's Lane; and
2. A special exception to the visual obstruction regulations is made to maintain a 6' high stone column in the 20 foot visibility triangle on the south side of the driveway onto the site from Lennox Lane.

Note that while the applicant requested special exceptions to the visual obstruction in the two 20 foot visibility triangles on both sides of the driveway into the site from Lennox Lane, the submitted site plan represents that only a special exception to the south side visual obstruction of the driveway is required.

**STANDARD FOR A SPECIAL EXCEPTION TO VISUAL OBSTRUCTION REGULATIONS:**

Section 51A-4.602(d)(3) of the Dallas Development Code states that the Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development Department Senior Engineer has no objections to the requests.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be granted (with the suggested conditions imposed) because the items located/to be located in the visibility triangles do not/will not constitute a traffic hazard.

**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. BDA167-140, Property at 10564 Lennox Lane (the subject site)

On December 11, 2017, The Board of Adjustment Panel granted a request for a special exception to the fence height regulations and a special exception to the fence materials and imposed the following condition: 1) compliance with the submitted site plan and elevation is required.

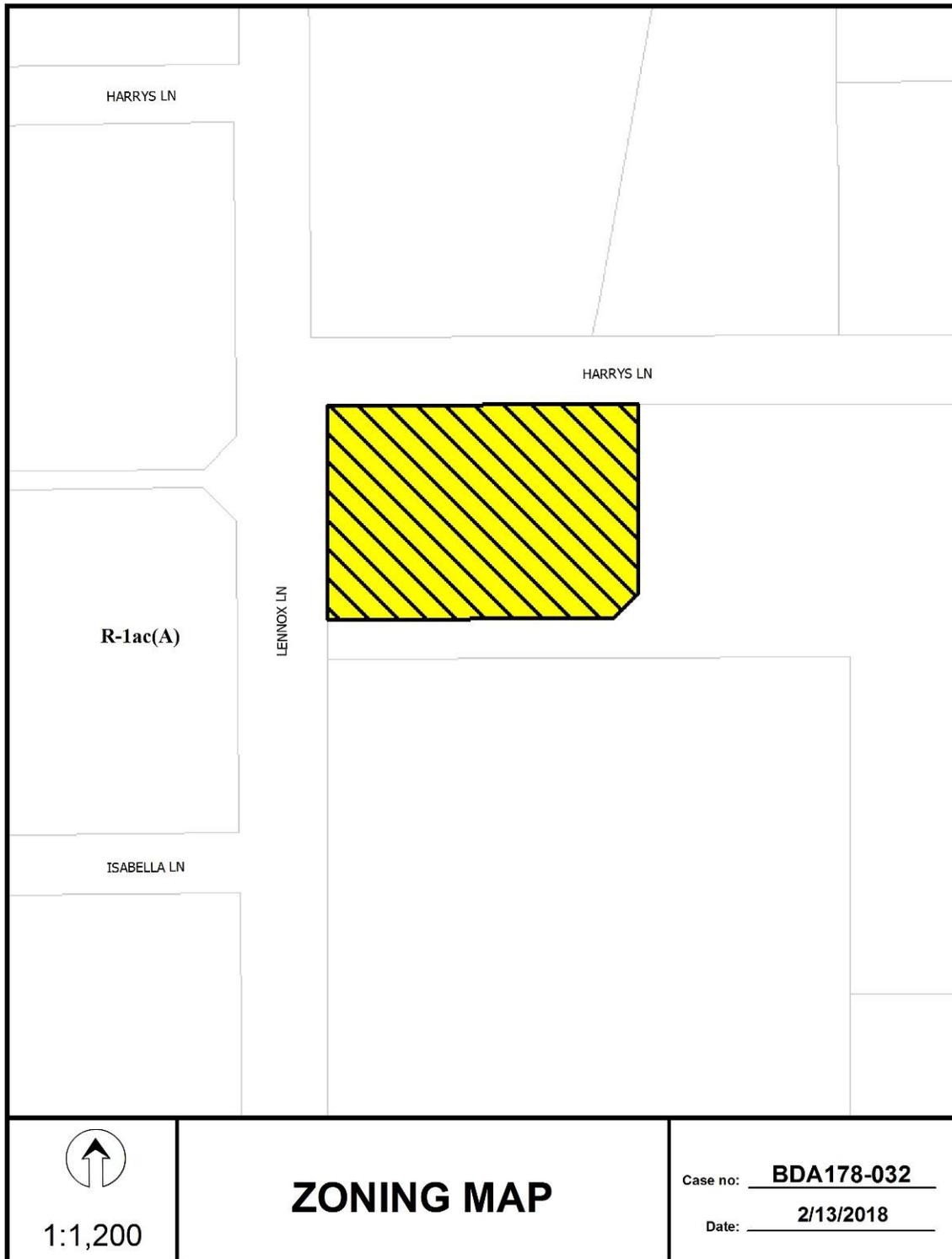
The case report stated the request was made to construct and maintain a 6' high wrought iron fence with 6' high wrought iron swinging gates and 6' high brick columns in the site's Lennox Lane 40' front yard setback along the property line; and, a 6' high wrought iron fence with 6' high wrought iron sliding gates and 6' high brick columns and a 6' high *solid wood* fence in the site's Harry's Lane 40' front yard setback along the property line.

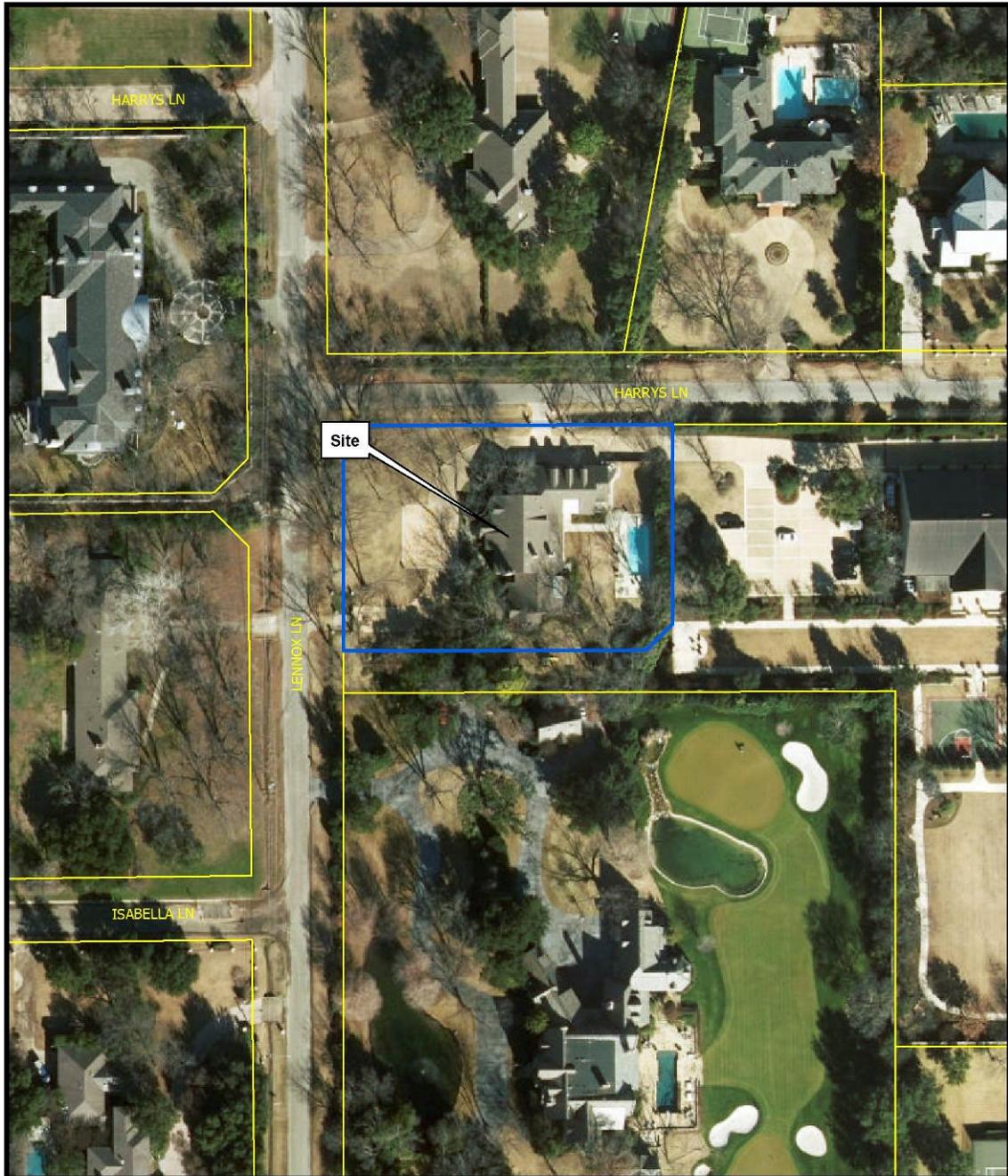
## **GENERAL FACTS/STAFF ANALYSIS:**

- These requests for special exceptions to the visual obstruction regulations focus on maintaining a 6' high stone column, and constructing and maintaining a 6' high open wrought iron fence with a sliding wrought iron gate in the two 20 foot visibility triangles on both sides of the driveway into the site from Harry's Lane; and maintaining a 6 foot high stone column in the 20' visibility triangle on the south side of the driveway into the site from Lennox Lane.
- Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The property is located in an R-1ac (A) zoning district which requires, the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of an existing 6 foot high stone column and a proposed 6' high open wrought iron fence with a sliding wrought iron gate located in the 20' visibility triangles on both sides of the driveway into the site from Harry's Lane; and an existing 6' high stone column located in the 20' visibility triangle on the south side of the driveway into the site from Lennox Lane.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulation to maintain a 6' high stone column and to construct and maintain a 6' high open wrought iron fence with a sliding wrought iron gate in the two 20 foot visibility triangles on both sides of the driveway into the site from Harry's Lane; and to maintain a 6' high stone column in the 20' visibility triangle on the south side of the driveway into the site from Lennox Lane do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20' drive approach visibility triangles into the site from Harry's Lane, and the 20' south side of the drive approach visibility triangle into the site from Lennox Lane to that what is shown on these documents – a 6' high stone column and a 6' high open wrought iron fence with a sliding wrought iron gate in the two 20 foot visibility triangles on both sides of the driveway into the site from Harry's Lane, and a 6' high stone column in the 20' visibility triangle on the south side of the driveway into the site from Lennox Lane.

## **Timeline:**

- January 24, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 12, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- February 13, 2018: The Board Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standards that the Board will use in their decision to approve or deny the requests; and
  - The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- March 8, 2018: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.





1:1,200

## AERIAL MAP

Case no: BDA178-032

Date: 2/13/2018



City of Dallas

C

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-032

Data Relative to Subject Property:

Date: January 16, 2018  
TX 75229

Location address: 10564 Lennox Lane, Dallas, TX Zoning District: single family

Lot No.: 3 Block No.: 2/5.521 Acreage: 1.002 Census Tract: 33.07

Street Frontage (in Feet): 1) 145 ft 2) 228 ft 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment: Kenny A. Troutt, trustee of the Kenny A. and Lisa C. Troutt Community Trust Estate, a part of the Troutt Family Trust

Applicant: Eric Eisenberg Telephone: 972-977-8600

Mailing Address: 10595 Strait Lane, Dallas, TX Zip Code: 75229

E-mail Address: eric.5249@yahoo.com

Represented by: Bob Mirabito Telephone: 214-908-5435

Mailing Address: 4013 Halifax Dr., Plano, TX Zip Code: 75023

E-mail Address: bmirabito@verizon.net

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception , of Requesting a special exception of 5' visibility triangle and provide a 15' visibility triangle along Harry Lane and a 1' encroachment and provide a 19' visibility triangle along Lennox Lane

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:  
will not have an adverse effect on neighbor's property and will fit in the neighborhood

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

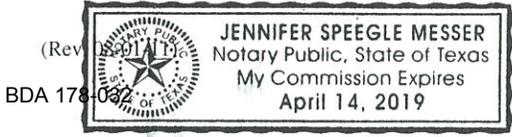
Affidavit

Before me the undersigned on this day personally appeared Eric Eisenberg  
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24th day of January, 2018



[Signature]  
Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied \_\_\_\_\_

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Eric Eisenberg  
represented by Robert A Mirabito  
did submit a request for a special exception to the visibility obstruction regulations  
at 10564 Lennox Lane

BDA178-032. Application of Robert A Mirabito for a special exception to the visibility obstruction regulations at 10564 LENNOX LN. This property is more fully described as Lot 3, Block 2/5521, and is zoned R-1ac(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulations.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



1061 50

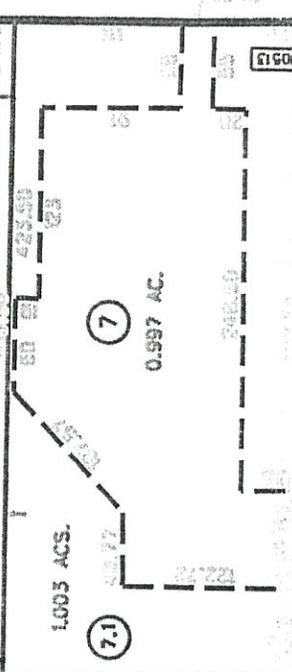
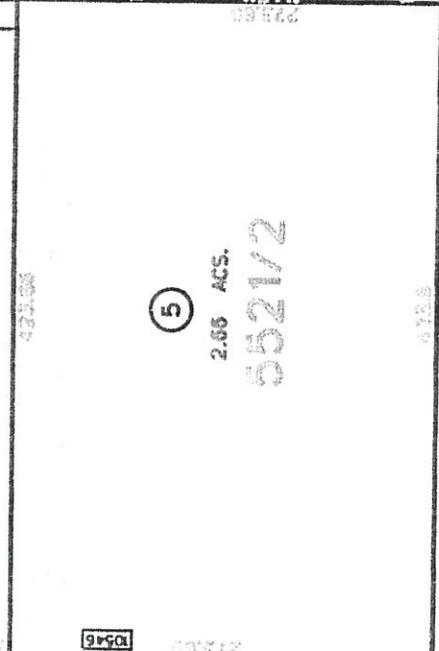
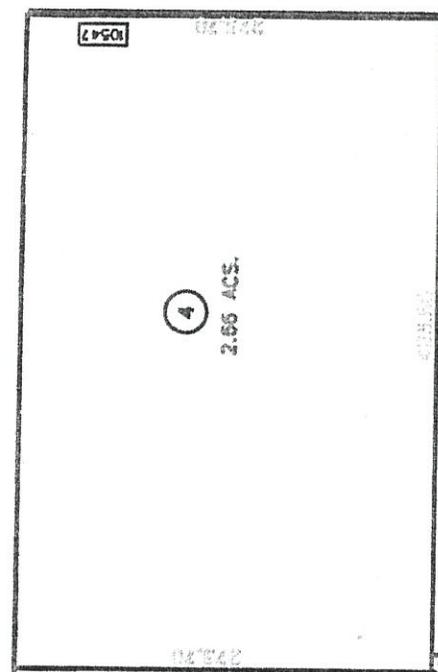
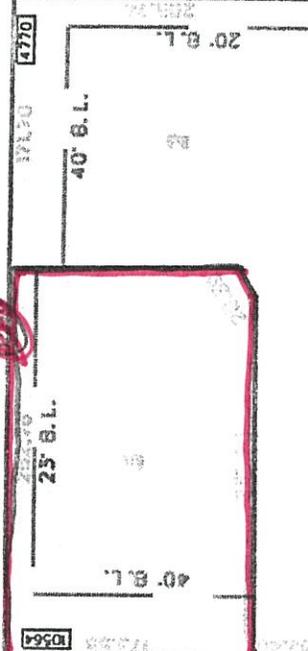
552213

50 HARRYS LANE 1700

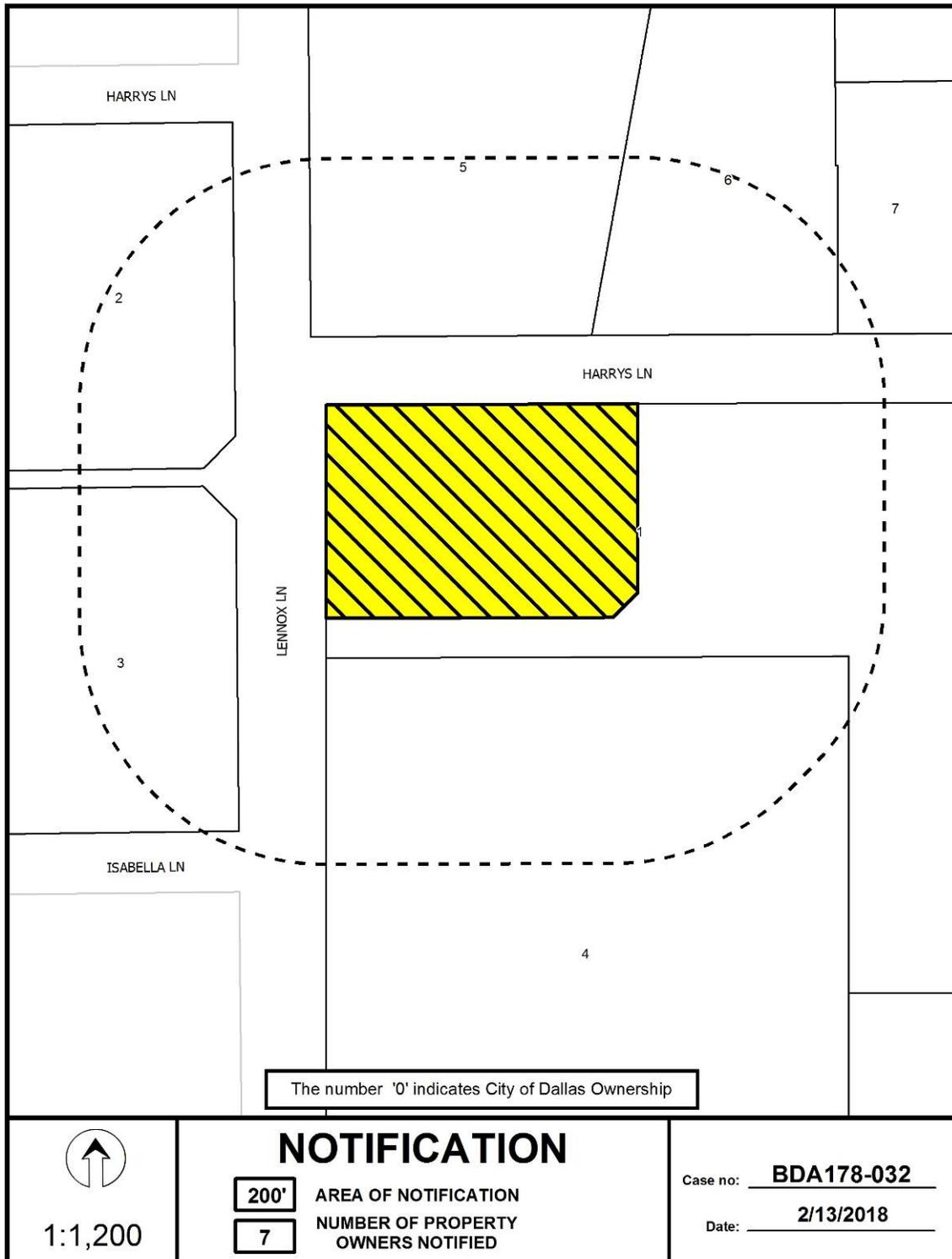
LANE 4800

10500

60 LANE







## *Notification List of Property Owners*

***BDA178-032***

### ***7 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	10595 STRAIT LN	TROUTT KENNY A & LISA C
2	10615 LENNOX LN	AZOUZ DAVID & ANGIE B
3	10545 LENNOX LN	LENNY TRUST
4	10540 LENNOX LN	ANDERSON MICHAEL SCOTT
5	10626 LENNOX LN	JUTRAS ROBERT N & DORIS L
6	4777 HARRYS LN	MARTIN PAUL A
7	4851 HARRYS LN	CHAPMAN JEFFREY A

**FILE NUMBER:** BDA178-034(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations at 8457 San Benito Way. This property is more fully described as Lot 1, Block 27/5278 and is zoned PD 575 (Subarea D), which requires a front yard setback of 50 feet. The applicant proposes to construct and maintain a structure and provide a 30 foot front yard setback, which will require a 20 foot variance to the front yard setback regulations.

**LOCATION:** 8457 San Benito Way

**APPLICANT:** Robert Baldwin of Baldwin and Associates

**REQUEST:**

A request for a variance to the front yard setback regulations of 20' is made to construct and maintain a single family home, part of which is proposed to be located in one of the site's two 50' front yard setbacks (Whittier Avenue) on a site that is undeveloped.

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot 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:

- While staff recognized that the subject site is slightly sloped, with mature trees on its western side, and unique and different from most lots in the PD 575 (Subdistrict D) zoning district in that it is the only lot in this subdistrict with two, 50' front yard setbacks, and according to the applicant, is the smallest lot in this subdistrict, staff concluded that the applicant had not substantiated how any/all of these features preclude the lot from being developed in a manner commensurate with the development upon other parcels of land with the same PD 575 (Subdistrict D) zoning district. The site is over 26,000 square feet in area in a zoning district that had been zoned R-10(A) where lots are typically 10,000 square feet in area. (While the applicant submitted a document indicating that the "percent buildable area" on the subject property zoned PD 575 (Subdistrict 10) is 30 percent, and the "typical interior lot" in R-10(A) has 56 percent, the applicant's same document shows that the subject is 23,200 square feet while the typical interior lot in R-10(A) is 10,000 square feet.
- In addition, the applicant had not substantiated how the proposed two-story single family home structure with, according to notations on a revised site plan, an approximately 2,600 square foot footprint and approximately 5,100 square feet of total area was commensurate to the development upon other parcels of land with the same PD 575 (Subdistrict D).

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 575 (Subdistrict D) (Planned Development)  
North: PD 575 (Subdistrict F) (Planned Development)  
South: PD 575 (Subdistrict H) (Planned Development)  
East: PD 575 (Subdistrict F) (Planned Development)  
West: PD 575 (Subdistrict D) (Planned Development)

### **Land Use:**

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

### **Zoning/BDA History:**

1. BDA145-104, Property at 8441 San Benito Way (the lot southwest of the subject site)

On October 19, 2015, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 33' 7", and imposed the submitted site plan as a condition to the request.

The case report stated that the request was made to construct and maintain additions (air-conditioned living space and carport with building footprints of approximately 1,500 square feet) to an existing single family home structure/use that has (according to the applicant) approximately 4,100 square feet, part of which would be located as close as 16' 5" from the site's San Pedro Parkway property line or 33' 7" into this 50' front yard setback.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request for variance to the front yard setback regulations of 20' focuses on constructing and maintaining a two-story single family home structure with, according to notations on a revised site plan, an approximately 2,600 square foot footprint and approximately 5,100 square feet of total area), part of which would be located in one of the site's two 50' front yard setbacks (Whittier Avenue).
- The property is located in the PD 575 (Subdistrict D) zoning district which requires a minimum front yard setback of 50 feet.
- The subject site is located at the west corner of San Benito Way and Whittier Avenue. The subject site has 50' front yard setbacks along both street frontages. The site has a 50' front yard setback along Whittier Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district even though the proposed house is to be oriented to front onto San Benito Way. The site also has a 50' front yard setback along San Benito Way, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 6' side yard setback is required. The site's San Benito Way frontage is a front yard setback to maintain the continuity of the established front yard setback established by the lot to the southwest that fronts/is oriented southeastward towards San Benito Way.
- The application states that a variance is requested of 20' which implies (given a 50' front yard setback) that the proposed structure would be 30' from a front property line. However, both the originally submitted site plan and revised site plan show no part of the structure 30' away from a property line. The revised site plan shows a building footprint that is at its closest point 31' from the Whittier Avenue front property line and located outside the 50' front yard setback on San Benito Way.

- The applicant has stated in a letter that the request is to match what appears to be a 30' front yard setback of the property to the north of the subject site.
- According to DCAD records, there are no "main or additional improvements" for property addressed at 8457 San Benito Way.
- The applicant has stated in a letter that not only is the site unusual in that it has two 50' front yard setbacks, it is also the smallest lot in the PD subdistrict.
- The site is relatively flat, rectangular in shape, and, according to the application, 0.61 acres (or approximately 26,000 square feet) in area. The site is zoned PD 575 (Subdistrict D). Prior to when this PD was created in 2000, the subject site had been zoned R-10(A) that required a 30' front yard setback.
- The site has two 50' front yard setbacks and two 6' side yard setbacks. Most lots in this zoning district have one 50' front yard setback, two 6' side yard setbacks, and one 6' rear yard setback.
- 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 575 (Subdistrict D) 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 575 (Subarea D) 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 which in this case is single family home structure that would be located 31' from the site's Whittier Avenue front property line (or as 19' into this 50' front yard setback).

**Timeline:**

January 24, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 12, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

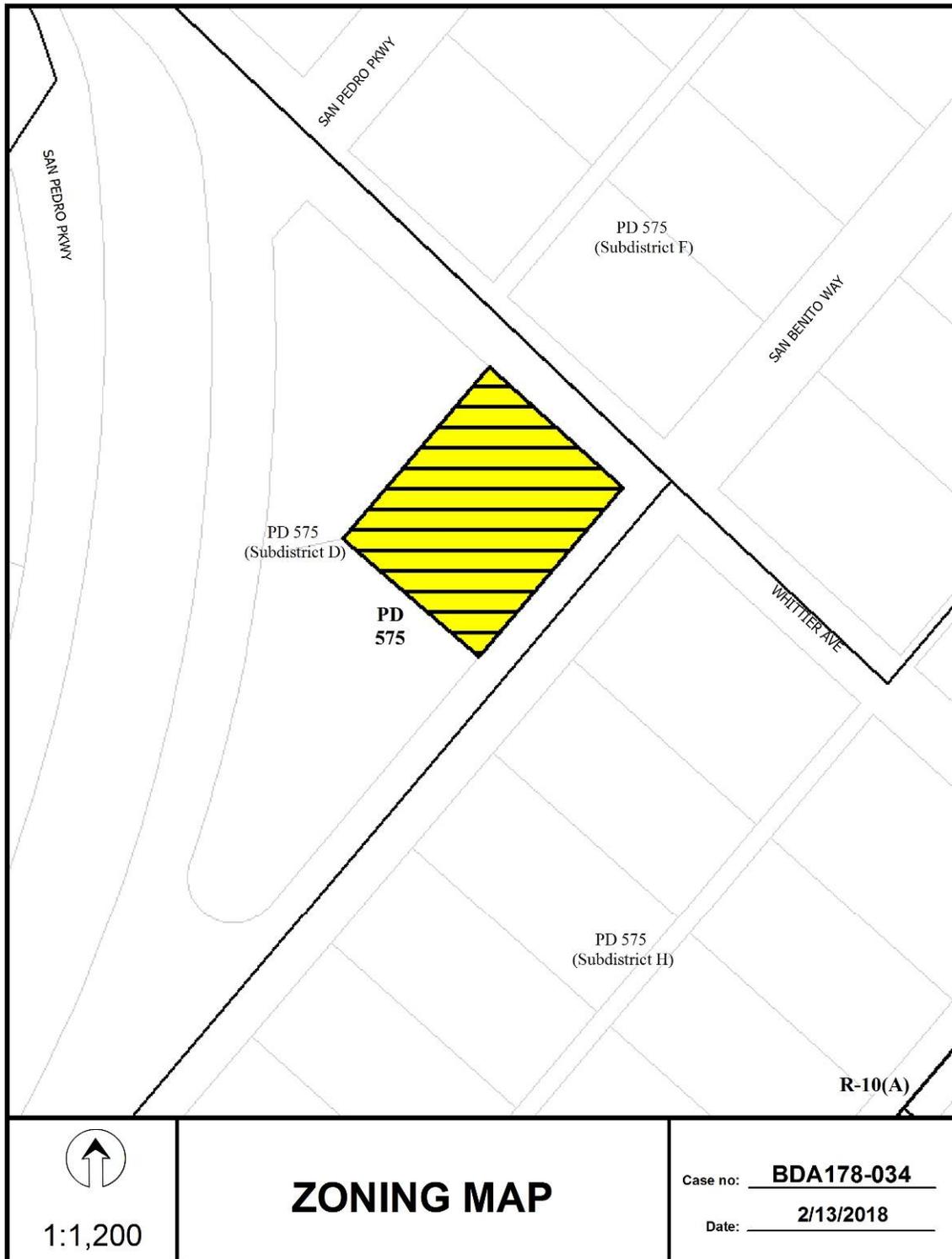
February 12, 2018: The Board Administrator emailed the applicant the following information:

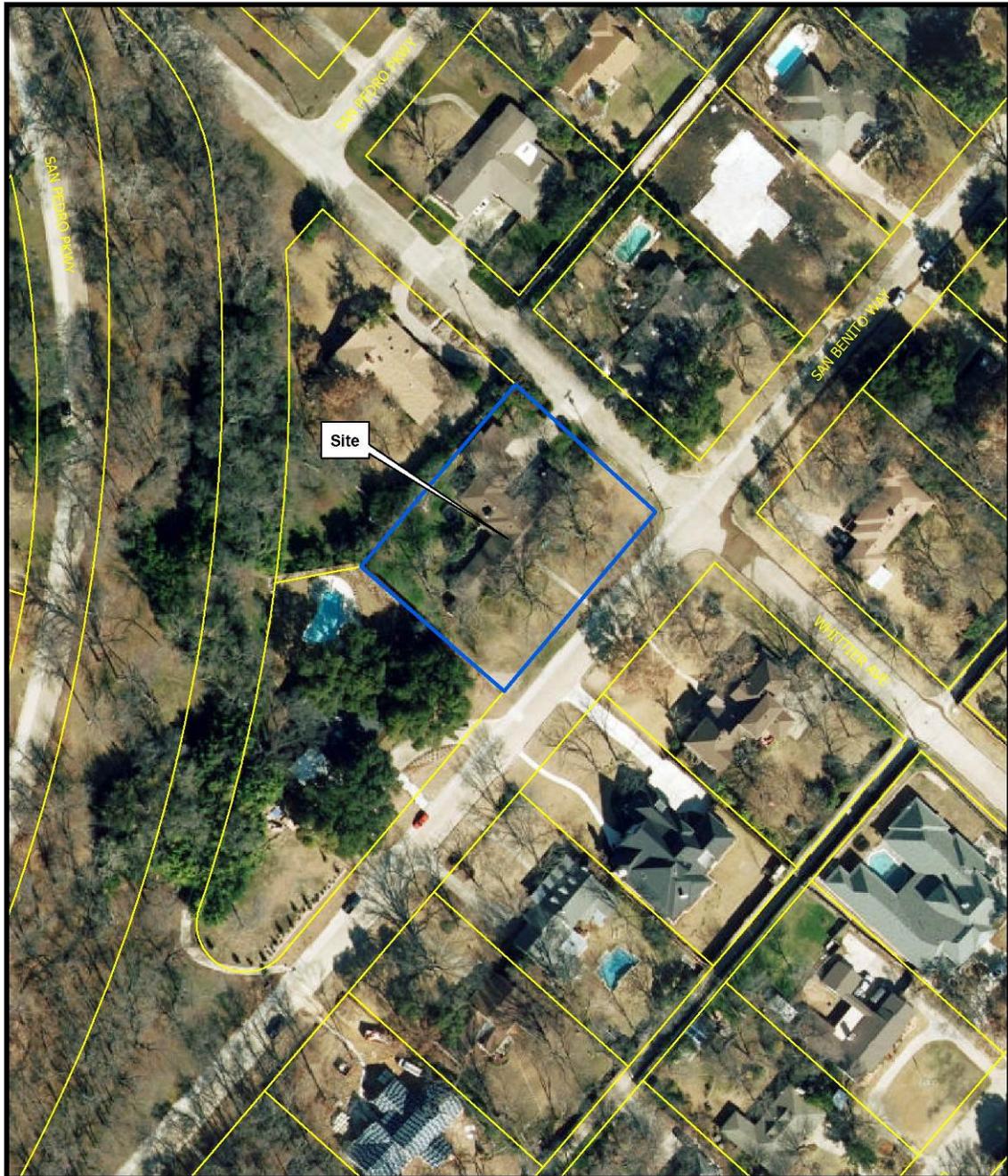
- an attachment that provided the public hearing date and panel that will consider the application; the February 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 28, 2018 The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

March 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, 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.





1:1,200

## AERIAL MAP

Case no: BDA178-034

Date: 2/13/2018

February 28, 2018

Steve Long, Board Administrator  
City of Dallas Board of Adjustment  
1500 Marilla 5BN  
Dallas, TX 75201

RE: BDA178-034  
8457 San Benito Way

Dear Mr. Long:

Our firm is assisting Christopher and Courtney Panatier as the property owners of 8457 San Benito Way in their application before the City of Dallas. The property is located at the northwest corner of San Benito Way and Whittier Avenue. The zoning rules considers both the San Benito and Whittier frontages as front yards and impose 50-foot setbacks along each frontage.

The property is currently located in Subdistrict D of PD-575. This zoning requires a 50-foot front yard setback. In this instance, our neighbor to the north on Whittier Avenue appears to have a 30-foot front yard setback. We are asking for permission to a match this setback requirement. We are not asking for any relief to the front yard setback along San Benito Way.

The property has two 50-foot front yards, which no other property in our subdistrict is restricted by two front yards. To demonstrate that the subject property has a restrictive size, please consider the below analysis of the buildable area after setbacks. A typical R-10(A) lot is used for comparison based on the minimum lot area in Subdistrict D. It is important to note that a typical R-10(A) lot has over half of the lot area to choose where the building pad will be placed, whereas the subject property is limited to 30% of its lot area to locate a building pad.

Lot Area Subject Property (sf)	23,200 sf
San Benito FY 50' BL	9,022
Whittier FY 50' BL	4,792
North Side Yard 1 - 10'	1,337
West Side Yard 2 - 10'	965
Buildable area after setbacks	7,083 sf
Percent buildable area	30%

Typical interior lot	R-10(A)
100 X 100	10,000 sf
FY 30' BL	3,000
(2) 6' Side Yards	840
6' Rear yard	528
Buildable area after setbacks	5,632 sf
Percent buildable area	56%

A review of the aerial maps for the neighborhood reveals that no other lot in the immediate area provides a 50-foot setback along Whittier. Lots to the north and east are in another subdistrict of the same PD, but the corner lots are required to treat Whittier as a side yard, rather than a front yard. The Panatier's have demolished the existing structure and the proposed new home actually has a building footprint that is smaller than the previous home. The Panatier's request will allow for the existing trees at the rear of the lot to be maintained and allow for construction on the flattest part of the lot. The western corner of the property drops approximately 6 feet in a 30-50-foot span according to NCTXCOG topo maps.

Following is a summary of the lot areas of the properties within our zoning subdistrict. As you can see, the subject property has the smallest lot area of Subdistrict D by about 20%. Some of these lots are irregularly shaped, as the roads curve around the city park property. A few lots are quite deep, allowing those lots to enjoy a larger back yard than the subject property.

Subdistrict D Properties

Address	DCAD Lot area (SF)
8457 San Benito Way	26,078
1515 Whittier Ave	29,983
8441 San Benito Way	38,343
8441 San Pedro Pkwy	32,577
8435 San Pedro Pkwy	34,888
8423 San Pedro Pkwy	36,380
8407 San Pedro Pkwy	34,066

Average lot area	33,188 SF
% difference of subject property from average	21%

We hope you can support our request. We believe the subject property has a hardship by its two-front yard requirement unlike other properties within our subdistrict, a slight slope at the western corner, and is the smallest lot of our subdistrict. Please contact me with any questions or concerns.

With kind regards,

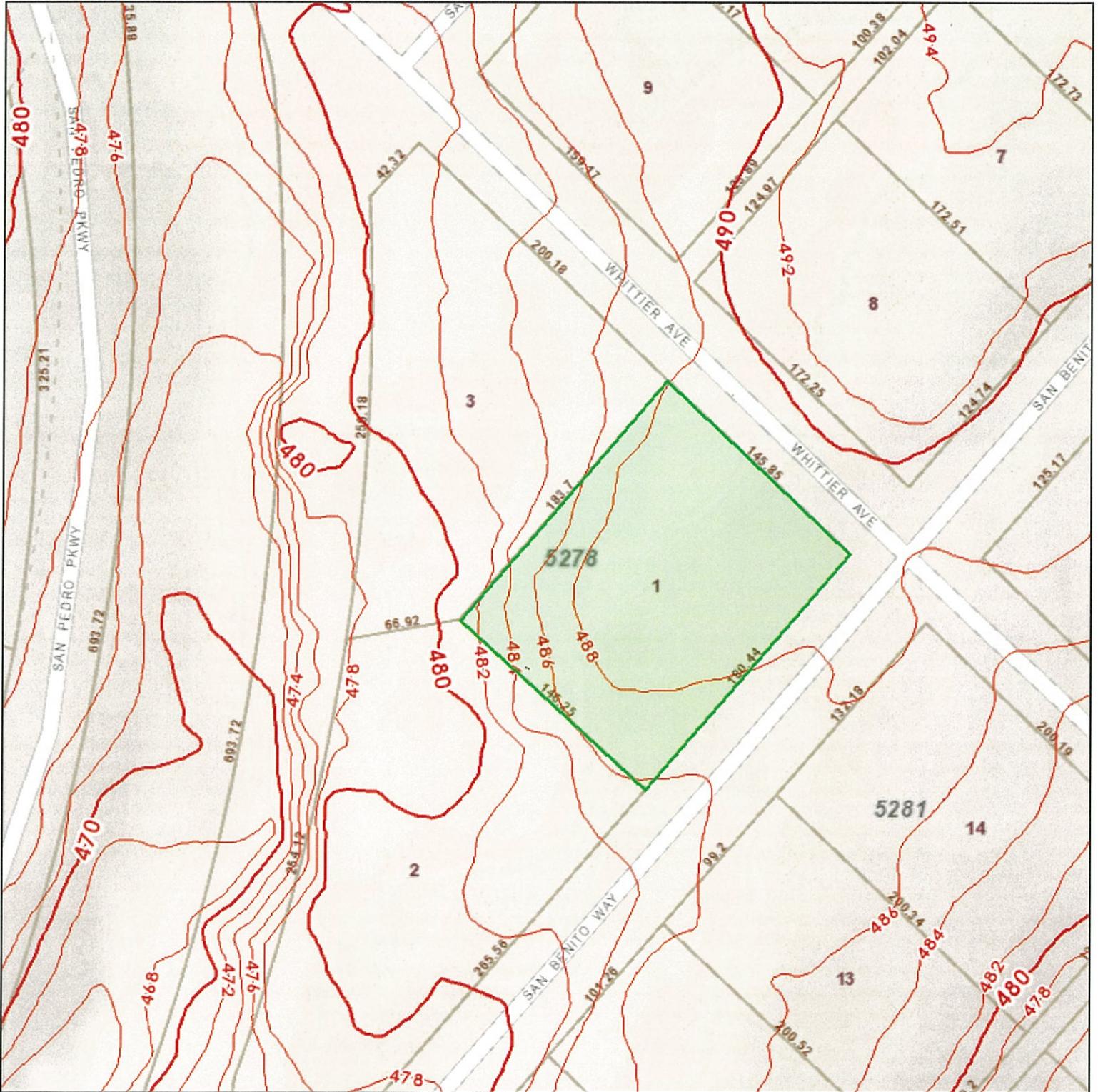
Rob Baldwin

BDA 178-034  
**San Benito topo NCTXCOG**

Attach A  
PS 3

DCAD ID: 00000371719000000

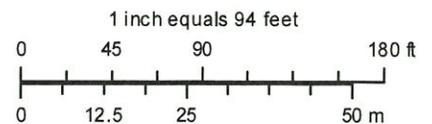
Date of copy: 1/23/2018



This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



Dallas Central Appraisal District  
2949 N Stemmons Freeway  
Dallas, TX 75247-6195  
(214) 696-1342  
www.dallascad.org







APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-034

Data Relative to Subject Property:

Date: January 24, 2018

Location address: 8457 San Benito Way Zoning District: PD 575 Sub. D

Lot No.: 1 Block No.: 27/5278 Acreage: 0.61 acres Census Tract: 81.00

Street Frontage (in Feet): 1) 180' 2) 145' 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Christopher and Courtney Panatier

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

*W* Affirm that an appeal has been made for a Variance X, or Special Exception   , of 20' to the front yard Required 50ft. front yard with 24 inch eave overhang

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: Subdistrict D requires a minimum 50' front yard. This corner lot property has two 50' front yard requirements. The property slopes in the rear and has trees that are to be preserved. The property is has the smallest lot area of all properties in Subdistrict D and no other lots have two front yard setbacks required. The proposed 30' front yard setback along Whittier Ave will match the previous home and line up with the adjacent existing home on Whittier.

**Note to Applicant:** If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

**Affidavit**

Before me the undersigned on this day personally appeared Robert Baldwin  
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24 day of January, 2018



[Signature]  
Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied \_\_\_\_\_

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Robert Baldwin

did submit a request for a variance to the front yard setback regulations  
at 8457 San Benito Way

BDA178-034. Application of Robert Baldwin for a variance to the front yard setback regulations at 8457 SAN BENITO WAY. This property is more fully described as Lot 1, Block 27/5278 and is zoned PD-575 (Subarea D) which requires a front yard setback of 50 feet. The applicant proposes to construct a single family residential structure and provide a 30 foot front yard setback measured at the foundation (with a 2 foot roof eave), which will require a 20 foot variance to the front yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



PARKWAY

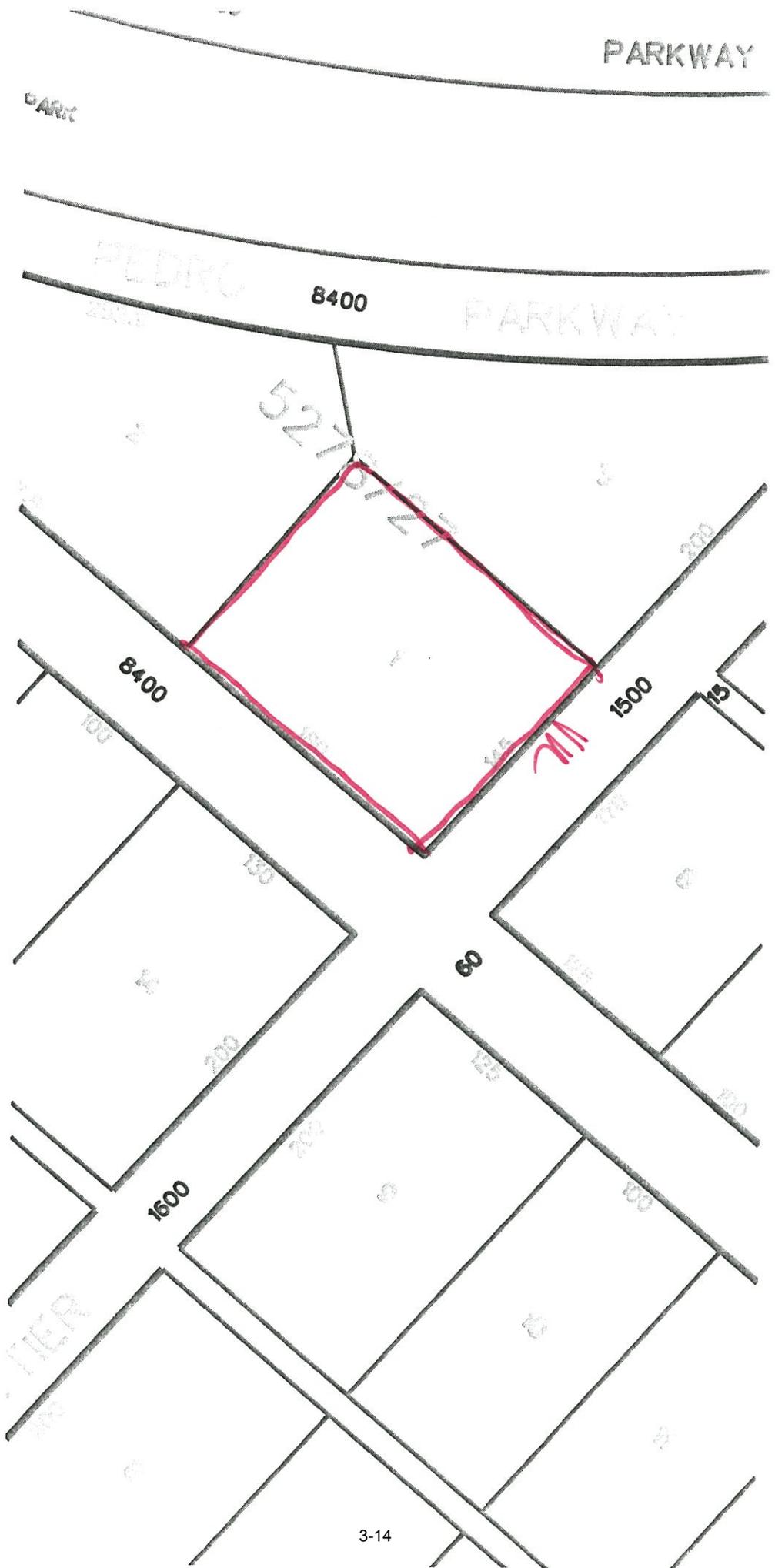
PARK

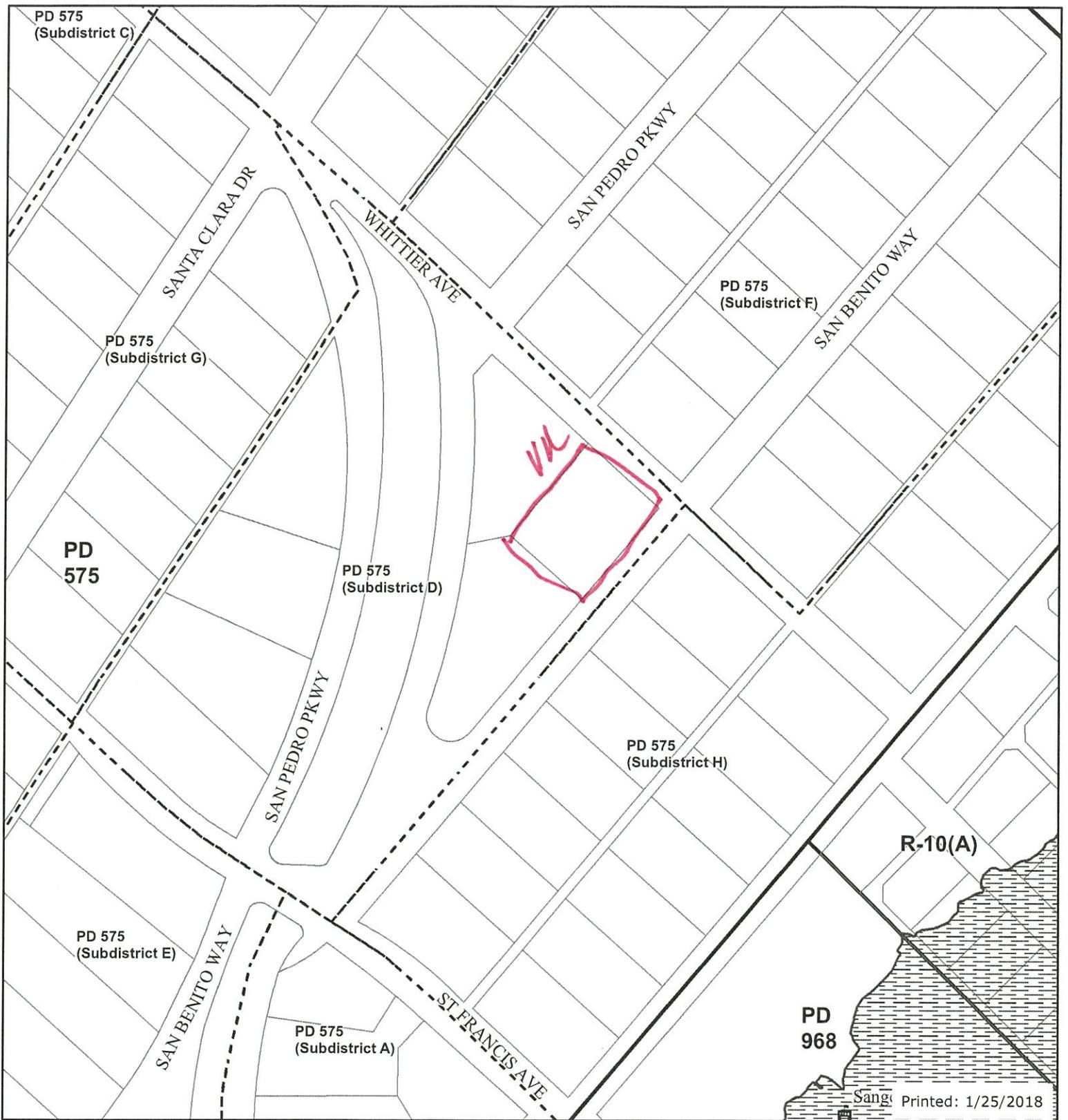
PEDRO

8400

PARKWAY

5275127





Printed: 1/25/2018

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSD Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | BDA 178-034                    | Historic Overlay      | 3-15 Shop Front Overlay    |
|                      | SUP                            | Height Map Overlay    |                            |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)

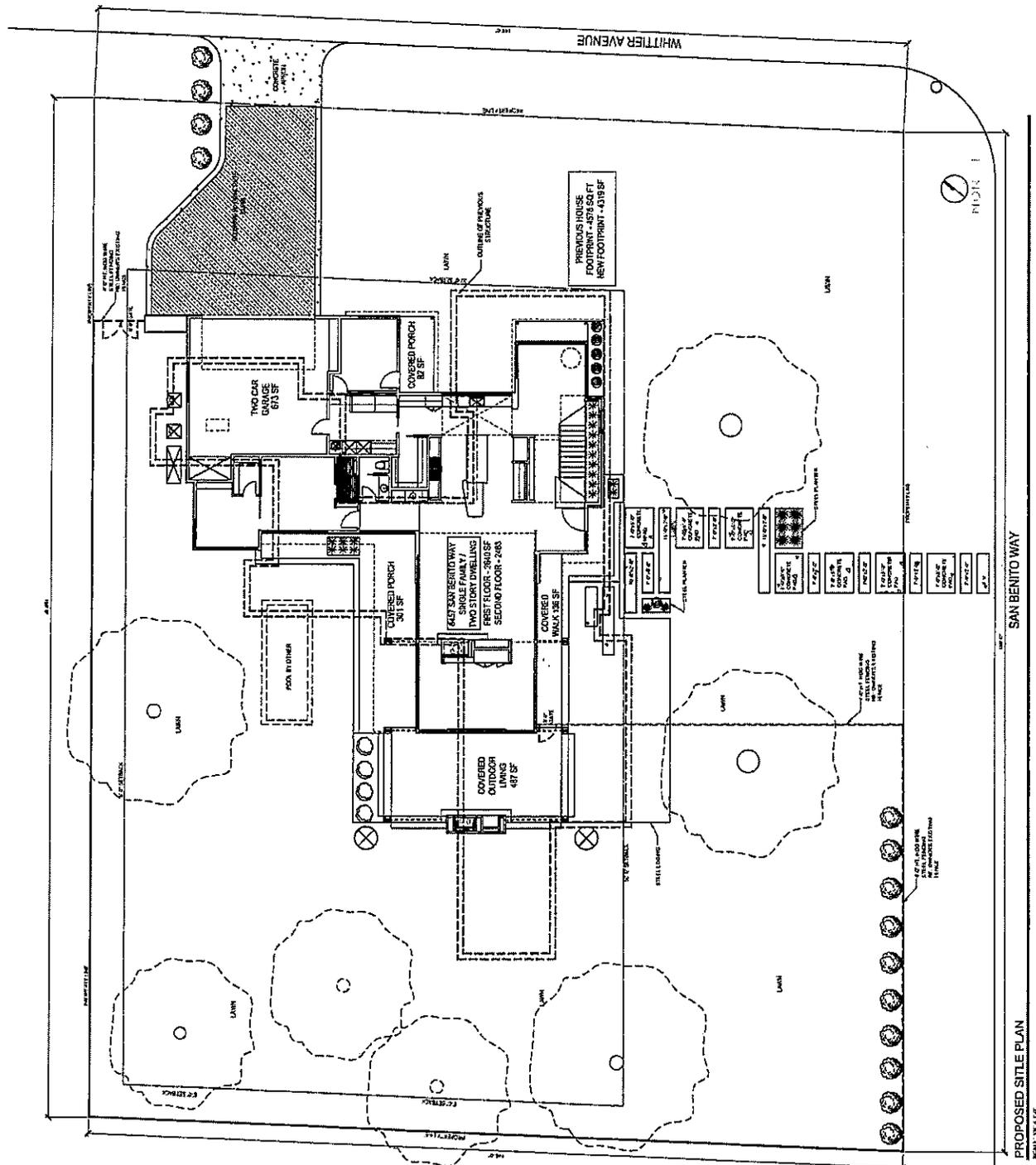


NO.	DATE	DESCRIPTION

PROJECT NUMBER	1722.01
OWNER	CHRIS PANABIER & COURTNEY VAN ZANDT
PROJECT ADDRESS	8457 SAN BENITO WAY, DALLAS, TEXAS 75218
SHEET ID	

PROPOSED SITE  
PLAN

DWG #  
**A0.02**



**SITE LEGEND**  
RE LANDSCAPE PLANS

[Symbol]	TOP CAST CONCRETE
[Symbol]	TEAL BRICK
[Symbol]	RECOMMENDED GRANITE
[Symbol]	LANDSCAPE CENTER - STEEL TOWER

ITEM	DESCRIPTION	QTY	UNIT
1	TOP CAST CONCRETE	100	SQ YD
2	TEAL BRICK	100	SQ YD
3	RECOMMENDED GRANITE	100	SQ YD
4	LANDSCAPE CENTER - STEEL TOWER	1	UNIT



**ma s t i i**  
S Y S T E M S

ARCHITECTURAL PARTNERS  
401 Exposition Avenue  
Dallas, Texas 75226  
www.DallasMaStii.com

**SEAL**  
CONCEPT NOT FOR  
RENDERING OR CONSTRUCTION  
This drawing is a conceptual rendering and is not intended to be used for construction. It is provided for informational purposes only. The client is responsible for obtaining all necessary permits and approvals. The architect is not responsible for any errors or omissions in this drawing. The architect is not responsible for any construction or other work that may be required to complete the project. The architect is not responsible for any other work that may be required to complete the project.

**PROJECT**  
The drawings under consideration  
are prepared for the client (Client) by the  
architect (Architect) for the purpose of  
obtaining permits and approvals. The  
architect is not responsible for any errors  
or omissions in this drawing. The architect  
is not responsible for any construction  
or other work that may be required to  
complete the project.

8457 SAN BENITO WAY  
Dallas, Texas 75218

DRAWINGS ISSUED  
NO. DATE DESCRIPTION

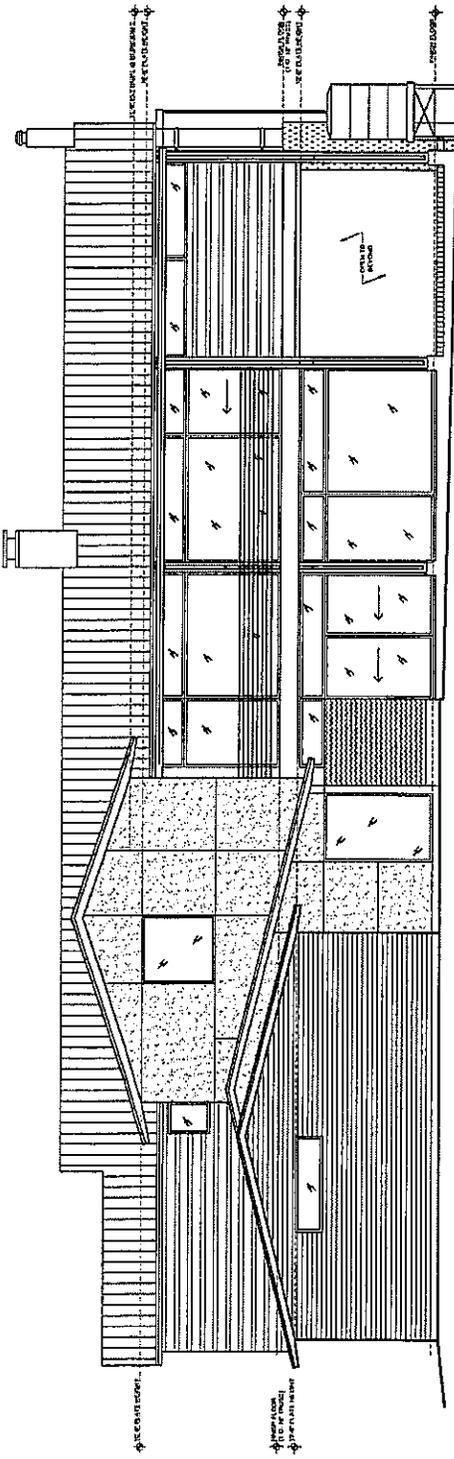
NO.	DATE	DESCRIPTION

PROJECT NUMBER  
**1722.01**

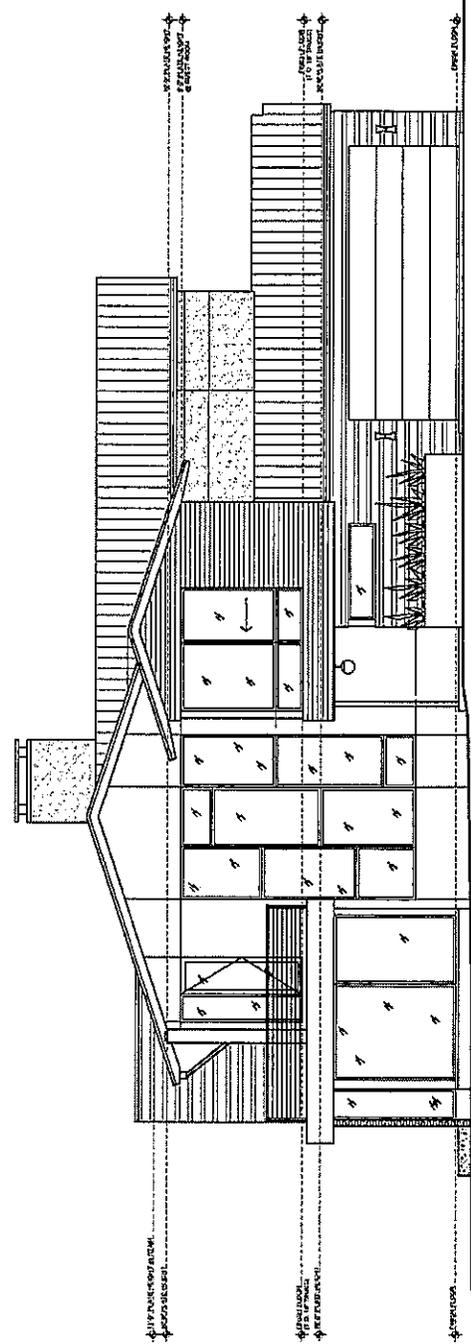
CLIENT: MRS. &  
CONRINE VAN ZANDT  
793 PEAWY ROAD  
DALLAS, TX 75218  
STREET ID

EXTERIOR  
ELEVATIONS

DWG #  
**A4.02**



REAR ELEVATION  
DATE: 07-17-18



SIDE (GARAGE) ELEVATION  
DATE: 07-17-18

**MATERIAL LEGEND**

[Pattern]	CONCRETE FOUNDATION
[Pattern]	BRICKWORK
[Pattern]	COMPOSITE Siding
[Pattern]	THICK LOGS
[Pattern]	WOOD SHAKES
[Pattern]	CONCRETE Siding
[Pattern]	MASSIVE



1:1,200

# NOTIFICATION

**200'** AREA OF NOTIFICATION  
**12** NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA178-034**

Date: **2/13/2018**

## *Notification List of Property Owners*

***BDA178-034***

### *12 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8457 SAN BENITO WAY	PANATIER CHRISTOPHER &
2	8441 SAN BENITO WAY	HOPSON ROBERT J &
3	1515 WHITTIER AVE	SWIRCZYNSKI HERBERT B
4	8515 SAN BENITO WAY	MIER BRIAN C & JENNIFER T
5	8507 SAN BENITO WAY	RAY CARL D &
6	8506 SAN PEDRO PKWY	GULLEDGE ROSEMARY
7	8514 SAN PEDRO PKWY	DEBUS RICHARD & QIAO LI
8	8506 SAN BENITO WAY	NOSTER TRINA G
9	8514 SAN BENITO WAY	COHEN BARBARA
10	8430 SAN BENITO WAY	YOUNGBLOOD GARY K TR
11	8438 SAN BENITO WAY	CROW KYLE
12	8446 SAN BENITO WAY	BELL MICHAEL B & JENELLE HAMPTON BELL