

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, FEBRUARY 15, 2011**

MEMBERS PRESENT AT BRIEFING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Steve Harris, regular member, Scott Hounsel, regular member and Johnnie Goins, regular member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Steve Harris, regular member, Scott Hounsel, regular member and Johnnie Goins, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

11:02 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 15, 2011** docket.

1:02 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A **January 18, 2011** public hearing minutes.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 15, 2011

MOTION: Schweitzer

I move **approval** of the Tuesday, **January 18, 2011** public hearing minutes.

SECONDED: Goins

AYES: 5 – Richmond, Schweitzer, Harris, Honsel, Goins,

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-016

BUILDING OFFICIAL'S REPORT:

Application of Ed Simons for a special exception to the fence height regulations at 5744 Deloache Avenue. This property is more fully described as Lot 3A in City Block 9/5599 and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8-foot 6-inch high fence which will require a special exception of 4 feet 6 inches.

LOCATION: 5744 Deloache Avenue

APPLICANT: Ed Simons

REQUEST:

- A special exception to the fence height regulations of 4' 6" is requested in conjunction with constructing and maintaining an approximately 6' high open steel tube picket fence with an approximately 8' high open steel tube picket gate and 8.5' high stone columns.

Note that the requested proposal would be an extension of an existing fence on the eastern side of the subject site erected as a result of a special exception to the fence height regulations of 4' 6" granted by Board of Adjustment Panel A in 2004 (BDA034-142) when the subject site was two separately platted lots. The proposed fence extension is to be continued westward in the subject site's 40' front yard setback currently developed with a single family home.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
The applicant has submitted a site plan and partial elevation indicating a fence/column/gate proposal in the site's front yard setback that would reach a maximum height of 8' 6".
- The following additional information was gleaned from the submitted site plan:
 - The proposal is shown to be approximately 180' in length parallel to the street.
 - The fence proposal is shown to be located approximately on the property line or approximately 22' from the pavement line.
 - Notation of a continuous row of "proposed shrub screen to match adjoining property."
- The proposal would be located on the site where one single family home has indirect frontage – a property that has an approximately 7' high combination open metal/solid masonry fence wall with no recorded BDA history. (The property immediately north of the site fronts east to Douglas Avenue and has an approximately 9' high solid masonry wall along its Deloache Avenue frontage).
- The Board Administrator conducted a field visit of the site and surrounding area along Deloache Avenue from Douglas Avenue west to the Dallas North Tollway (generally 500 feet northwest and southeast of the site) and noted one other fence that appeared to be located in a front yard setback and higher than 4' in height – an approximately 7' high open metal fence with 8' high metal posts that appears to be the result of an approved fence height special exception in 1996: BDA956-138.

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, east, south, and west are developed with single family uses.

Zoning/BDA History:

1. BDA 034-142, Property at 5744 DeLoache Avenue (the eastern part of the subject site) On April 20, 2004, the Board of Adjustment Panel A granted a request for a variance of 5 feet to the side yard setback regulations and granted a request for a special exception to the fence height regulations of 4.5'. The board imposed the following condition in conjunction with the variance: compliance with the submitted site plan is required; the board imposed the following condition in conjunction with the fence height special exception: compliance with the submitted site plan is required and a fence elevation showing a 6 foot vinyl coated chain link fence where indicated on the plan to be screened by plant materials such that no portion of the chain link fence is visible from Douglas Street is required. The case report stated that these requests were made in conjunction with constructing and maintaining a 6' high metal picket fence with 8.5' high entryway columns along the site's entire frontage along DeLoache Avenue, and along about half of the site's frontage along Douglas Avenue and an 8' high chain link fence along the remaining portion of the site's frontage along Douglas Avenue; and constructing and maintaining an arbor (11.5' high, 5' wide, 18' long) in the side yard setback proposed to be located 5' from the site's western side property line (which is

now part of the subject site given a replat of what was at the time two lots into what is now one lot.

2. BDA 956-138, 5710 DeLoache Avenue (the lot west of the subject site)
- On February 27, 1996, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations of 4' and to the visibility obstruction regulations, subject to compliance with the submitted site/landscape plan and elevation. These appeals were requested in conjunction with constructing and maintaining a 7.9' high open metal fence with 8' high metal posts.

Timeline:

- December 9, 2010: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 19, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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."
- January 20, 2011: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 4th 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 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, and the Assistant City Attorney to the Board.
- February 3, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has

no objections if certain conditions are met” with the following comments: “Must comply with all C.O.D visibility requirements.”

STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 6’ high open steel tube picket fence with an approximately 8’ high open steel tube picket gate and 8.5’ high stone columns that would be an extension of a fence on the eastern side of the subject site that was result of a fence height special exception request granted by the Board of Adjustment in 2004.
- A site plan and partial elevation has been submitted indicating a fence/column/gate proposal that reaches a maximum height of 8’ 6”. The site plan indicates that the proposal is about 180’ in length parallel to the street, located approximately on the property line or approximately 22’ from the pavement line. The plan denotes a continuous row of “proposed shrub screen to match adjoining property.” The partial elevation shows that the proposal is an approximately 6’ high open steel tube picket fence with an approximately 8’ high open steel tube picket gate and 8.5’ high stone columns.
- The proposal would be located on the site where one single family home has indirect frontage – a property that has an approximately 7’ high combination open metal/solid masonry fence wall with no recorded BDA history. (The property immediately north of the site fronts east to Douglas Avenue and has an approximately 9’ high solid masonry wall along its Deloache Avenue frontage).
- The Board Administrator conducted a field visit of the site and surrounding area along Deloache Avenue from Douglas Avenue west to the Dallas North Tollway (generally 500 feet northwest and southeast of the site) and noted one other fence that appeared to be located in a front yard setback and higher than 4’ in height – an approximately 7’ high open metal fence with 8’ high metal posts that appears to be the result of an approved fence height special exception in 1996: BDA956-138.
- As of February 7, 2011, no letters had been submitted to staff in support or in opposition to the application.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8’ 6” in height) will not adversely affect neighboring property.
- Granting this special exception of 4’ 6” with a condition imposed that the applicant complies with the submitted site plan and partial elevation would assure that the proposal would be constructed and maintained in the location and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 15, 2011

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Harris

I move that the Board of Adjustment grant application **BDA 101-016** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

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

SECONDED: Hounsel

AYES: 5 – Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-020

BUILDING OFFICIAL’S REPORT:

Application of Larry Loftis, represented by Don Caldera, for a special exception to the fence height regulations at 5100 Park Lane. This property is more fully described as Lot 1G in City Block 5/5595 and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 12-foot 8-inch high fence which will require a special exception of 8 feet 8 inches.

LOCATION: 5100 Park Lane

APPLICANT: Larry Loftis
Represented by Don Caldera

REQUESTS:

- Special exceptions to the fence height regulations of up to 8’ 8” are requested in conjunction with constructing and maintaining the following on a site that is undeveloped:
 1. In the site’s 40’ Park Lane front yard setback: an 8’ high open wrought iron fence with 9’ high stone columns and an approximately 11.5’ high open wrought iron gate with 12’ 8” high entry gate columns parallel to Park Lane, and an 8’ high stucco wall with 9’ high stone columns perpendicular to Park Lane on the east side of the subject site ; and
 2. In the site’s 40’ Inwood Road front yard setback: an 8’ high stucco wall with 9’ high stone columns parallel and perpendicular to Inwood Road on the west and south sides of the subject site.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The subject site is located at the southeast corner of Park Lane and Inwood Road. Even though the Park Lane frontage of the site appears to function as the site's front yard and the Inwood Road frontage appears to function as one of the site's two side yards, the site has front yard setbacks along both street frontages. The site has a front yard setback along Park Lane given that this frontage is the shorter of the two street frontages which is always deemed a front yard on a corner lot, and a front yard setback along Inwood Road the longer of the two frontages usually deemed a side yard on a corner lot but a front yard in this case nonetheless in order to maintain the continuity of the established front yard setback of lots immediately south that front westward onto Inwood Road.
The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
The applicant has submitted a site plan and elevation document indicating a fence/wall/column/gate proposal that would be located in the site's two front yard setbacks and would reach a maximum height of 12' 8".
- The following additional information was gleaned from the site plan for the proposal *along Park Lane*:
 - The proposal is shown to be approximately 170' in length parallel to the street and approximately 40' perpendicular on the east side of the site in the front yard setback.
 - The proposed fence is shown to be located approximately on the property line and approximately 16' from the pavement line. (The proposed gate is shown to be located approximately 8' from the property line and approximately 24' from the pavement line).
 - Notations of a continuous "hedge screen" on the street side of the proposed fence.
- The following additional information was gleaned from the site plan for the proposal *along Inwood Road*:
 - The proposal is shown to be approximately 330' in length parallel to the street, and approximately 37' perpendicular on the south side of the site in the front yard setback.
 - The proposed fence/wall is shown to be located approximately 3' from the property line and approximately 14' from the pavement line. (The proposed gate

is shown to be located approximately 12' from the property line and approximately 30' from the pavement line).

- Notations of a continuous "6'-0" tall hedge screen" on the street side of the proposed wall.
- The proposal *along Park Lane* would be located on the site where one single family home would have direct frontage – a property with an approximately 9' high open metal fence with 11' high masonry columns with no recorded BDA history.
- The proposal *along Inwood Road* would be located on the site where one single family home would have direct frontage – a home/lot with an approximately 5' high open chain link fence in its front yard setback with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area along Park Lane (generally from Inwood Road approximately 500 feet to the east) and along Inwood Road (approximately 500 feet north and south of the site) and noted the following additional visible fences beyond what has been described above four feet high which appeared to be located in the front yard setback beyond the two fences mentioned above. (Note that these locations and dimensions are approximations):
 - An approximately 6' high ornamental open metal fence immediately east of the site on Park Lane that appears to be the result of an approved fence height special exception in 2001: BDA001-230.
 - An approximately 8' high open metal fence with 8.5' high columns northeast of the site on Park Lane that appears to be the result of an approved fence height special exception in 1997: BDA 967-258.
 - An approximately 10' high solid concrete wall north of the site on Inwood Road with no recorded BDA history.

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

Zoning/BDA History:

1. BDA 001-118, Property at 5100 Park Lane (the subject site)

On December 12, 2000, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations of 4', subject to conditions including: compliance with a modified elevation indicating a maximum 6' fence and 7.5' high pilasters/columns and gate, and site/landscape plan. This request was needed in conjunction with constructing and maintaining a maximum 8' high solid masonry wall with 8' high wrought iron gates along Park Lane and Inwood Road.

2. BDA 001-129, Property at 5205 Park Lane (two lots northeast of the site)

On December 12, 2000, the Board of Adjustment Panel A denied a request for a special exception to the fence regulations of 6' 3" without prejudice, needed in conjunction with constructing and maintaining a maximum 7' 8" high open wrought iron fence, 10' high masonry columns and a 10' 3" high entry gate. Staff had recommended that the request should be approved, subject to compliance with the submitted site/landscape plan and elevation.

3. BDA 001-230, Property at 5110 Park Lane (the lot immediately east of the subject site)

On August 20, 2001, the Board of Adjustment Panel C granted a request for a special exception to the fence regulations of 4', subject to the submitted site/landscape plan. The case report stated that this request was made in conjunction constructing and maintaining an approximately 6' high black vinyl chain link and ornamental open metal fence approximately 25' long parallel to Park Lane; and an approximately 6' high black vinyl chain link fence approximately 250' long parallel to Ravine Drive.

Timeline:

- December 17, 2010: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 19, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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.”

January 20, 2011: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 4th 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 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, and the Assistant City Attorney to the Board.

February 3, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following comments: “Must comply with all C.O.D visibility requirements.”

STAFF ANALYSIS:

- The requests focus on constructing and maintaining an 8’ high open wrought iron fence with 9’ high stone columns and an approximately 11.5’ high open wrought iron gate with 12’ 8” high entry gate columns parallel to, and an 8’ high stucco wall with 9’ high stone columns perpendicular on the east side of the subject site along Park Lane; and an 8’ high stucco wall with 9’ high stone columns parallel and perpendicular on the west and south sides of the subject site along Inwood Road. The site is currently undeveloped.
- A site plan and elevation document has been submitted documenting the location of the proposed fence/wall/columns/gates relative to their proximity to the Park Lane and Inwood Road front property and pavement lines, the length of the proposals relative to the entire lot, and the proposed building/fence materials.
- The following additional information was gleaned from the revised site plan/elevation for the proposal *along Park Lane*:
 - The proposal is shown to be approximately 170’ in length parallel to the street and approximately 40’ perpendicular to the street on the east side of the site in the front yard setback.
 - The proposal is shown to be located on the front property line and approximately 16’ from the pavement line. (The proposed gate is shown to be located

- approximately 8' from the property line and approximately 24' from the pavement line).
- Notations of a continuous "hedge screen" on the street side of the proposed fence.
 - The following additional information was gleaned from the revised site plan/elevation for the proposal *along Inwood Road*:
 - The proposal is shown to be approximately 330' in length parallel to the street, and approximately 37' in length perpendicular on the south side of the site in the front yard setback.
 - The proposal is shown to be located approximately 3' from the property line and approximately 14' from the pavement line. (The proposed gate is shown to be located approximately 12' from the property line and approximately 30' from the pavement line).
 - Notations of a continuous "6'-0" tall hedge screen" on the street side of the proposed wall.
 - The proposal *along Park Lane* would be located on the site where one single family home would have direct frontage – a property with an approximately 9' high open metal fence with 11' high masonry columns with no recorded BDA history.
 - The proposal *along Inwood Road* would be located on the site where one single family home would have direct frontage – a home/lot with an approximately 5' high open chain link fence in its front yard setback with no recorded BDA history.
 - The Board Administrator conducted a field visit of the site and surrounding area and noted several visible fences that appeared to be in front yard setbacks that have been previously described in the "General Facts" and "Zoning/BDA History" sections of the case report.
 - As of February 7, 2010, no letters had been submitted to staff in support or in opposition to the proposals.
 - The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations (whereby the proposal that would reach 12' 8" in height) will not adversely affect neighboring property.
 - Granting these special exceptions of up to 8' 8" with a condition imposed that the applicant complies with the submitted site plan and elevation document would require that the proposals be constructed and maintained in the locations and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 15, 2011

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Harris

I move that the Board of Adjustment grant application **BDA 101-020** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general

purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

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

SECONDED: Hounsel

AYES: 5 – Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-015

BUILDING OFFICIAL’S REPORT:

Application of Stephen Muncey, represented by James Davis Jr., for a special exception to the single family regulations at 7518 Wentwood Drive. This property is more fully described as Lot 12 in City Block 7/5450 and is zoned R-7.5(A) which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit which will require a special exception.

LOCATION: 7518 Wentwood Drive

APPLICANT: Stephen Muncey
Represented by James Davis Jr.

REQUEST:

- A request for a special exception to the single family use development standard regulations is requested in conjunction with constructing and maintaining a two-story, detached “garage”/“guest suite” structure on a site currently developed with a one-story dwelling unit/single family home structure to be demolished and replaced with a two-story dwelling unit/single family home structure.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is *when in the opinion of the board*, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

GENERAL FACTS:

- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties. The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.” A site plan has been submitted denoting the locations of the building footprints of the “new two story brick and stone” dwelling unit structure and the “new two story brick and stone garage” dwelling unit structure relative to the entire site. The site plan shows that the building footprint of the “new two story brick & stone garage” structure is approximately 620 square feet in area, and that the building footprint of the “new two story brick and stone” main structure is approximately 1,300 square feet in area. An elevation has been submitted of the second/additional dwelling unit on the site denoting a two-story structure that is approximately 18’ in height. Floor plans have been submitted denoting the “new two story brick and stone garage” structure. The first floor denotes the following: “two car garage,” “stackable washer and dryer” space. The second floor denotes the following: “guest room,” “sitting room” with “fridge/freezer,” “GFCl,” dishwasher, and sink) and “bath” spaces. Building Inspection staff has reviewed the submitted floor plans and deemed it a “dwelling unit.”
- DCAD records indicate that the site is developed with the following:
 - a single family home built in 1953 with 1,334 square feet of living area; and
 - a 400 square foot detached garage.
- The applicant’s representative forwarded additional information beyond what was submitted with the original application (see Attachment A).

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

December 16, 2010: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 19, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 20, 2011: 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 January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 4th 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 specific accessory structure provisions from the Dallas Development Code attached (51A-4.209(6)(vii)) that would apply to one of the two structures on the site if your application for a special exception to the single family use regulations for an additional dwelling unit were to be denied by the board of adjustment at your public hearing; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 31, 2011: The applicant's representative forwarded additional information on this application to staff (see Attachment A).

February 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a two-story, detached “garage”/“guest suite” structure with an approximately 620 square foot building footprint on a site currently developed with a one-story dwelling unit/single family home structure to be demolished and replaced with a two-story dwelling unit/single family home structure that (according to the applicant’s representative) will be “approximately 3,000 square feet.”
- The site is zoned R-7.5(A) (Single family district 7,500 square feet) where the Dallas Development Code permits one dwelling unit per lot. The site is proposed to be developed with a new single family home/dwelling unit and an additional dwelling unit/“garage”/“guest suite” structure on the site hence the special exception request.
- Building Inspection staff has reviewed the submitted floor plans of the proposed “garage”/“guest suite” structure and deemed it a “dwelling unit” - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.” The submitted floor plans denote the first floor with the following: “two car garage,” “stackable washer and dryer” space; and the second floor with the following: “guest room,” “sitting room” with “fridge/freezer,” “GFCI,” dishwasher, and sink and “bath” spaces.
- This request appears to center on the function of what is proposed to be located inside the proposed “garage”/“guest suite” structure. If the board were to deny this request, it appears that this structure could be constructed and maintained with merely modifications to the function/use inside it (or to the floor plan) since the proposed structure appears (and is represented by the applicant’s representative) to comply with the applicable zoning code development standards (i.e. no application has been made for variance to setbacks or any other zoning code provision). According to the applicant’s representative, the “new garage with a guest room above it meets all of the requirements set forth by the City of Dallas except the fact that it can be used as a separate living quarters. We can actually obtain a building permit we would need with a slight manipulation of the interior floor plan. To obtain a building permit we would need to remove: any cooking area, any food preparation since, the closet, and the wall that divides the living spaced from the bedroom.”
- As of February 7, 2011, no letters had been submitted to staff in support or in opposition to the application.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve the request for a special exception to the single family regulations, the Board may want to determine if they feel that imposing a condition that the applicant comply with the submitted site plan and/or floor plan are necessary in assuring that the special exception will not adversely affect neighboring properties. Note that granting this special exception request will not provide any relief to the

Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements including but not limited to setback and coverage requirements).

- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 15, 2011

APPEARING IN FAVOR: James Davis, Jr., 7643 Lovers LN., Dallas, TX
Stephen Muncey, 7518 Wentwood Dr., Dallas, TX

APPEARING IN OPPOSITION: Troy Murrell, 3710 Rawlins #950, Dallas, TX

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. **BDA 101-015** on application of Stephen Muncey, represented by James Davis Jr., **grant** the request of this applicant to maintain an additional dwelling unit on the property, because our evaluation of the property and testimony shows that the additional dwelling unit will not be used as rental accommodations nor adversely affect neighboring properties. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The property must be deed restricted to prohibit the additional dwelling unit on the site from being used as rental accommodations.
- Compliance with the submitted site plan and/or floor plan is required.
- The main building must be demolished before or immediately upon final inspection of the additional dwelling unit.

SECONDED: Harris

AYES: 5 – Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-017

BUILDING OFFICIAL’S REPORT:

Application of Maria Isabel Hinojosa for a special exception to the single family regulations at 715 Monssen Drive. This property is more fully described as Lot 3 in City Block 54/5973 and is zoned R-7.5(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit which will require a special exception.

LOCATION: 715 Monssen Drive

APPLICANT: Maria Isabel Hinojosa

February 15, 2011 Public Hearing Notes:

- Opposing property owners submitted additional documentation to the board at the public hearing in addition to their verbal testimony.

REQUEST:

- A request for a special exception to the single family use development standard regulations is requested in conjunction with constructing and maintaining a two-story, detached “proposed addition/guest house/gameroom” structure/dwelling unit with an approximately 680 square foot building footprint on a site developed with a one-story single family home structure/dwelling unit that (according to the DCAD) has approximately 2,600 square feet of living area.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is *when in the opinion of the board*, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

GENERAL FACTS:

- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.

The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”

A site plan has been submitted denoting the locations of the building footprints of the “proposed addition” and the “existing 715 Monssen Dr. 1-story brick” relative to the entire site.

An elevation has been submitted of the second/additional dwelling unit on the site denoting a two-story structure that is approximately 22’ in height.

A floor plan document has been submitted denoting the “proposed addition” structure/dwelling unit. The first floor denotes the following: “3-car garage.” The second floor denotes the following: “gameroom,” “kitchenette,” “bath,” and “bedroom.”

Building Inspection staff has reviewed the submitted floor plan and deemed it a “dwelling unit.”

- DCAD records indicate that the site is developed with the following:
 - a single family home built in 1956 with 2,595 square feet of living area; and
 - a 595 square foot attached garage.
- Building Inspection has commented that the proposed structure in this case as an “accessory structure” (as opposed to an additional “dwelling unit” structure if this special exception were to be denied) violates the code requirement that the height of an accessory structure may not exceed the height of the main building. (The existing main structure is one-story, the proposed structure that is the issue of this request is two-story).

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

December 17, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 13, 2011: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an email to the Board of Adjustment Chief Planner pertaining to this application stating that “the structure violates the requirement that the height of an accessory structure may not exceed the height of the main building. (The main structure is one-story, the accessory is two-story).

January 19, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 20, 2010: The Board Administrator wrote the applicant a letter that conveyed the following information given that the Board Administrator could not reach the applicant by phone:

- the panel, public hearing date and location of his public hearing on his application;
- the criteria/standard that the board will use in their decision to approve or deny the request,
- the specific accessory structure provisions from the code (S51A-4.209(6)(vii)) that would apply to existing/proposed structures on the site if the application for a special exception to the single family use development standard regulations for an additional dwelling unit were to be denied by the board of adjustment at the public hearing;
- the January 31st deadline to submit additional evidence for staff to factor into their analysis; and the February 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials; and
- a general description of the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

(Note that this letter referenced a staff person who can provide assistance in Spanish).

February 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a two-story, detached “proposed addition/guest house/gameroom” structure/dwelling unit with an approximately 680 square foot building footprint on a site developed with a one-story single family home structure/dwelling unit that (according to the DCAD) has approximately 2,600 square feet of living area.
- The site is zoned R-7.5(A) (Single family district 7,500 square feet) where the Dallas Development Code permits one dwelling unit per lot. The site is developed with a single family home/dwelling unit, and the applicant proposes to construct and maintain an additional dwelling unit/“proposed addition/guest house/gameroom” structure on the site hence the special exception request.
- Building Inspection staff has reviewed the submitted floor plan of the proposed additional dwelling unit/ “proposed addition/guest house/gameroom” structure and deemed it a “dwelling unit” - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.” The submitted floor plan denotes a structure with first floor having a “3-car garage;” and the second floor having a “gameroom,” “kitchenette,” “bath,” and “bedroom.”
- This application is not like most requests for special exceptions to the single family use development standard regulations where the typical request merely centers on the function of what is proposed to be located inside a proposed “additional dwelling unit” structure. In most of these types of applications, if the board were to deny the request, the structure that is the nature of the request could be constructed and maintained by merely modifying the function/use inside it (or to the floor plan) since it is established by the applicant that the proposed structure complies with the applicable zoning code development standards (i.e. no application has been made for variance to setbacks or any other zoning code provision). Building Inspection has commented that the proposed structure in this case as an “accessory structure” (as opposed to an additional “dwelling unit” structure if this special exception were to be denied) violates the code requirement that the height of an accessory structure may not exceed the height of the main building. (The existing main structure is one-story, the proposed structure that is the issue of this request is two-story).
- As of February 7, 2011, no letters had been submitted to staff in support of the application and 14 letters/emails had been submitted in opposition.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve the request for a special exception to the single family regulations, the Board may want to determine if they feel that imposing a condition that the applicant comply with the submitted site plan and/or floor plan are necessary in assuring that the special exception will not adversely affect neighboring properties. Note that granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements including but not limited to setback and coverage requirements).

- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 15, 2011

APPEARING IN FAVOR: Maria Isabel Hinojosa, 715 Monssen Dr., Dallas, TX

APPEARING IN OPPOSITION: Elaine Parkham, 1219 Rock Springs Rd, Duncanville, TX

Joseph Hernandez, 528 Hoel Drive, Dallas, TX
 Wayne Chai, 723 Mayrant Dr., Dallas, TX
 Vicki Patsdauter, 707 Mayrant Dr., Dallas, TX
 Terry Thomas, 732 Mayrant Dr., Dallas, TX
 Marjorie Flowers, 706 S Manus Dr., Dallas, TX
 Q. Lynn Johnson, 638 Monssen Dr., Dallas, TX
 Tom Froehlich, 733 Monssen Dr., Dallas, TX
 Jan Rainey, 711 Monssen Pkwy., Dallas, TX

APPEARING IN OPPOSITION

APPEARING FOR TRANSLATION: Claudia Ibarra, 1500 Marilla, 7DN, Dallas, TX

MOTION #1: Schweitzer

I move that the Board of Adjustment in Appeal No. **BDA 101-017**, suspend the rules and accept the evidence that is being presented to us today.

SECONDED: Harris

AYES: 5 – Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MOTION #2: Harris

I move that the Board of Adjustment, in Appeal No. **BDA 101-017** on application of Maria Isabel Hinojosa, **deny** the request of this applicant to maintain an additional dwelling unit on the property **without prejudice**, because our evaluation of the property, the testimony presented to us, and the facts that we have determined show that the additional dwelling unit on the site will adversely affect neighboring properties.

SECONDED: Goins

AYES: 5 – Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MOTION: Goins

I move to adjourn this meeting.

SECOND: Hounsel

AYES: 5– Richmond, Schweitzer, Harris, Hounsel, Goins

NAYS: 0 -
MOTION PASSED: 5- 0 (unanimously)

2:16 P.M. - Board Meeting adjourned for **February 15, 2011.**

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.