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**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
TUESDAY, OCTOBER 19, 2021**

CITY SECRETARY
DALLAS, TEXAS

MEMBERS PRESENT AT BRIEFING: Dave Neumann, Chair, regular member, Cheri Gambow, Vice-Chair, regular member, Jay Narey, regular member, Sarah Lamb, regular member, and Lawrence Halcomb, regular member

MEMBERS ABSENT FROM BRIEFING: None

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes and Daniel Moore, Asst. City Attys., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Senior Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Phil Erwin, Arborist, Jason Pool, Sign Code Specialist, and Andreea Udrea, Assistant Director

MEMBERS PRESENT AT HEARING: Dave Neumann, Chair, regular member, Cheri Gambow, Vice-Chair, regular member, Jay Narey, regular member, Sarah Lamb, regular member, and Lawrence Halcomb, regular member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes and Daniel Moore, Asst. City Attys., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Senior Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Phil Erwin, Arborist, Jason Pool, Sign Code Specialist, and Andreea Udrea, Assistant Director

11:04 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 19, 2021** 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

Approval of the Board of Adjustment Panel A, September 21, 2021 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: October 19, 2021

MOTION: Gambow

Approval of the Board of Adjustment Panel A, September 21, 2021 public hearing minutes.

SECONDED: Lamb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-090(PD)

BUILDING OFFICIAL’S REPORT: Application of Audra Buckley of Permitted Development, LLC for special exceptions to the fence height and fence standards regulations at 8627 Lakemont Drive. This property is more fully described as Lot 9, Block 5067, and is zoned an R-10(A) Single Family District, which limits the height of a fence in the front yard to four feet and prohibits the use of certain materials. The applicant proposes to construct a five-foot six-inch-high fence in a required front yard using a prohibited material, which will require a one-foot six-inch special exception to the fence height regulations and a special exception to the fence standards regulations regarding materials.

LOCATION: 8627 Lakemont Drive

APPLICANT: Audra Buckley of Permitted Development, LLC

REQUEST:

The applicant is seeking to install a five-foot six-inch fence using prohibited steel metal sheet material on the gates on a property currently being developed with an approximately 7,853-square-foot single-family dwelling.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single Family District)
North: R-10(A) (Single Family District)
East: R-10(A) (Single Family District)
South: R-10(A) (Single Family District)
West: R-10(A) (Single Family District)

Land Use:

The subject site is currently under construction with a single-family dwelling unit. Surrounding properties to the north, east, and west are developed with single-family uses while the property to the south is undeveloped.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The property is currently being developed with an approximately 7,853-square-foot single-family dwelling. The applicant proposes to construct a five-foot-six-inch-high fence made of steel and limestone masonry material with three steel rolling gates with along three drive approaches fronting Lakemont Drive.

The Dallas Development Code Section 51A-4.602(2) states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-10(A) Single Family District and requires a minimum front yard setback of 30 feet. However, the property is situated along the west line of Lakemont Drive and thereby must maintain the 30-foot front yard setback in compliance with the front yard provisions for residential districts.

Additionally, Section 51A-4.602(8) prohibits the use of certain materials for fencing, including sheet metal.

The following information is shown on the submitted site plan:

- The proposed fence with sliding steel sheet metal gates is located at the lot line along Lakemont Drive and at its closest point appear to be approximately zero feet from the back of curb/pavement line.
- Along Lakemont Drive the fence is proposed at a width of 176.2 feet and has a depth of 40 feet into the front yard setback.

- The fence is proposed to be constructed of steel and limestone masonry.

As of October 8, 2021, no letters have been submitted in opposition or in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of one-foot six-inches and materials located on Lakemont Drive will not adversely affect neighboring properties.

Granting the special exception to the fence standards related to the height and materials would require the proposal exceeding four feet-in-height in the front yard setback located along Lakemont Drive to be maintained in the locations, heights and materials as shown on the site plan and elevation plan.

Timeline:

- July 30, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- Sept. 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- Sept. 17, 2021: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 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.
- Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

No staff review comment sheets were submitted with these requests.

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING IN FAVOR: Audra Buckley 1414 Belleview St. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION#1: Gambow

I move that the Board of Adjustment, in Appeal No. BDA 201-090, on application of Audra Buckley of Permitted Development, LLC, **grant** the request of this applicant for special exceptions to the fence height and fence standards regulations contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

SECONDED: Lamb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0 –

MOTION PASSED: 5 - 0 (unanimously)

FILE NUMBER: BDA201-098(PD)

BUILDING OFFICIAL’S REPORT: Application of Mehrdad Moayedi represented by Tommy Mann of Winstead PC for variances to the side yard and front yard setback regulations at 3601 Routh Street. This property is more fully described as Lots 11, 12, and 13, within Block 7/1012, and is zoned an MF-3 Multiple Family Subdistrict within Planned Development District No. 193, which requires a front yard setback of 10 feet for the portion of a structure less than 36 feet-in-height and 25 feet for the tower portion of a structure greater than 36 feet-in-height, and requires a side yard setback of 41 feet for the tower portion of a structure greater than 36 feet-in-height. The applicant proposes to construct and maintain a multifamily structure and provide a 10-foot side yard setback for the tower portion greater than 36 feet-in-height, which will require a 31-foot variance to the side yard setback regulations on both side yards, and to provide no (zero) front yard setback for the portion less than 36 feet-in-height, which will require a 10-foot variance to the front yard setback regulations, and to construct a multifamily tower structure and provide a 10-foot front yard setback for the portion greater than 36 feet-in-height, which will require a 15-foot variance to the front yard setback regulations on both Routh and Hood street frontages.

LOCATION: 3601 Routh Street

APPLICANT: Mehrdad Moayedi represented by Tommy Mann of Winstead PC

REQUESTS:

The applicant proposes to construct and maintain a multifamily dwelling unit and provide a 10-foot side yard setback for tower portions greater than 36 feet-in-height and a provide a zero-foot front yard setback for the portion less than 36 feet-in-height.

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.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION (both variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the MF-3 Multiple Family Subdistrict considering its restrictive lot area of 18,955 square feet, two front yards, and topography changes of approximately eight feet ensuring that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning. The applicant submitted a document (**Attachment A**) indicating the restrictive slope and area.

BACKGROUND INFORMATION:

Zoning: all within PDD No. 193 with a D Liquor Control Overlay

<u>Site</u>	MF-3 Multiple Family Subdistrict
<u>North:</u>	MF-3 Multiple Family Subdistrict
<u>South:</u>	MF-3 Multiple Family Subdistrict
<u>East:</u>	MF-3 Multiple Family Subdistrict
<u>West:</u>	O-2 Office Subdistrict and MF-3 Multiple Family Subdistrict

Land Use:

The subject site is undeveloped while the surrounding properties are developed with residential uses consisting of multifamily or more specifically, condominiums.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The requests for variances to the front yard and side yard setbacks focus on constructing and maintaining a multifamily structure and providing a 10-foot side yard setback for the tower portion greater than 36 feet-in-height, which will require a 31-foot variance to the side yard setback regulations on both side yards, and to provide no (zero) front yard setback for the portion less than 36 feet-in-height, which will require a 10-foot variance to the front yard setback regulations, and to construct a multifamily tower structure and provide a 10-foot front yard setback for the portion greater than 36 feet-in-height, which will require a 15-foot variance to the front yard setback regulations on both Routh and Hood street frontages.

DCAD records indicate that the subject property was developed with a multifamily development prior to 2018, however the multifamily structure was razed between 2019 and 2021. The property is proposed to be developed with a four-story condominium structure consisting of 20 dwelling units and a total maximum height of approximately 62 feet. Additionally, the subject property is 18,955 square feet in area, contains two front yards, and has topography changes of approximately eight feet across the length of the site.

Section 51P-193.118(b)(6) states that in an MF-3 Subdistrict, the following minimum front yard setbacks must be provided for all building and structures:

- (A) 10 feet for the first 36 feet in height.
- (B) 25 feet for all portions of a building above 36 feet in height. (See Exhibit 193D-6.)

The above section of the code ensures that for the first 36 feet of the structure fronting along Routh Street and Hood Street a minimum setback of 10 feet is required. Since the structure is proposed to have a maximum height of 62 feet measured from average grade, the remaining 26 feet-in-height is required to provide the additional setback of 25 feet. Since the site has two front yards, the size and location of the structure is further encumbered by the additional front yard and tower setback.

Section 51P-193.119(b)(6)(7) states in the MF-3 and MF-4 subdistricts, if a building is erected or altered to exceed 36 feet-in-height, an additional setback must be provided that is equal to one-

half of the total height of the building, up to a maximum setback of 50 feet. The additional setback is only required for that portion of a building that exceeds 36 feet-in-height.

Thus, compliance with this section of the code would require the structure to provide the ten-foot side yard with an additional 31 feet (half of the maximum height of 62) for a total setback of 41 feet. Since the property has two front yards, this maintains that the property also has two side yards and no rear yard. Therefore, the northern portion of the structure and the western portion of the structure are considered side yards and must provide a 41-foot side yard setback. Additionally, this section of the code also provides a 20 percent reduction for one side yard, if an additional setback is required. Thus, one side yard could provide a 32-foot-eight-inch side yard setback while the other must provide a 41-foot side yard setback.

The property's slope increases the height of the building since the building will be measured from the average grade rather than grade. This also imposes an additional setback triggered by the increase in height. Considering the restrictive area and slope of the property, the additional setbacks would further restrict the buildable area by more than 1,200 square feet.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the floor area regulations for structures accessory to single-family uses 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 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 zoning classification.

As of October 8, 2021, no letters have been submitted in support of or in opposition to the request.

Ultimately, the four requests are independent, and the board must consider the standards and evidence presented for each request.

If the board were to grant the variances to the front yard and side yard setbacks and impose the submitted site plan as a condition, the building footprints of the structures on the site would be limited to what is shown on the plan. However, granting these requests will not provide any relief to the Dallas Development code regulations.

Timeline:

- August 20, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Sept. 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- Sept. 17, 2021: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 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.
- Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.
- October 8, 2021: The applicant provided additional evidence with renderings (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING IN FAVOR: Tommy Mann 2728 N. Harwood St.#500 Dallas, TX
Daniel Box 2728 N. Harwood St.#500 Dallas, TX
William Ledbetter 1800 Valley View Ln. Dallas, TX

APPEARING IN OPPOSITION: Robert Schwartz 3617 Routh St. Dallas, TX

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-098, hold this matter under advisement until **November 16, 2021**.

SECONDED: Gambow

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-094(PD)

BUILDING OFFICIAL'S REPORT: Application of Danielle Mathews of Masterplan Texas for a special exception to the sign regulations at 10455 N. Central Expressway. This property is more fully described as Lot 2A, Block C/7289, and is dually zoned an MU-1 Mixed-Use District and an RR Regional Retail District, which limit the number of detached signs on a premise to one per street frontage other than expressways and allows only one detached sign for every 450 feet of frontage or fraction thereof on an expressway. The applicant proposes to construct one additional detached premises sign on a nonresidential premise, which will require a special exception to the sign regulations.

LOCATION: 10455 N. Central Expressway

APPLICANT: Danielle Mathews of Masterplan Texas

REQUEST:

A request for a special exception to the sign regulations is made to construct and maintain an additional detached premise sign on a site that developed with a mix of uses consisting of office uses, personal service and retail uses, restaurant without drive-in or through service uses, and general merchandise uses.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:

Section 51A-7.703(d)(2) of the Dallas Development Code states that the Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on-premises in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STAFF RECOMMENDATION (additional detached sign):

Denial

Rationale:

- The applicant did not provide any evidence as to how strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- The Development Services Sign Inspector has objected to the request for a special exception to the sign regulations to construct and maintain one additional detached premise sign on a nonresidential premise. The Sign Inspector noting the applicant's statement that aside from the narrow frontage the additional sign is important for the site's tenants to provide site identification, that a recommendation of denial is based on no hardship or inequity demonstrated. Additionally, the Sign Inspector's objection/denial is based on the Code's allowance and the site's expressway frontage, that the site is allowed to have a sign up to 400 square feet in area and 50 feet tall. Further citing that no evidence has been provided to invalidate why the allowed sign up to 400 square feet in area with 50 feet of height is inadequate to meet the identification needs (**Attachment B**).

BACKGROUND INFORMATION:

Zoning:

Site: MU-1, Mixed Use District

North: PDD No. 904 Subarea B, GO(A) General Office District

East: PDD No. 904, Subarea A

South: MU-2, Mixed Use District

West: MF-2(A) Multifamily District

Land Use:

The site is developed with a mix of uses consisting of office uses, personal service and retail uses, and general merchandise uses. The properties to the north are developed with a mini warehouse use, office, and multifamily uses. The properties to the east consist of a vacant use, restaurant without drive through service, and a restaurant with drive-through service uses. The properties to the south and west are developed with multifamily uses.

Zoning/BDA History:

There has been one recent related board case recorded in the vicinity within the last five years.

1. **BDA189-032:** On March 18, 2019, the Panel C Board of Adjustment granted a special exception to the landscape regulations at 2620 Maple Avenue.

GENERAL FACTS/STAFF ANALYSIS:

The subject site consists of 9.1 acres of land developed with a mix of uses consisting of office uses, personal service and retail uses, and general merchandise uses. The request for a special exception to the sign regulations focuses on constructing and maintaining an additional sign along the North Central Expressway Service Road frontage.

Section 51A-7.304(b) (4) of the Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways. The size of the property is not considered in evaluating whether an additional sign is permitted. The site is currently allowed three signs by right (one per frontage), which it has utilized. Under current regulations these three signs are allowed a combined effective area of up to 800 square feet as with any other site with an expressway frontage.

The submitted site plan indicates the location of three detached non-monument signs, with one along each frontage (Meadow Road, North Central Expressway Service Road, and Riverfall Drive). Additionally, the property has approximately 51 feet of frontage along the North Central Expressway Service Road frontage. The sign is proposed to be approximately 200 feet from or behind the existing sign along the service road frontage. A sign elevation denoting the proposed detached non-monument sign has been submitted.

The applicant has the burden of proof in establishing the following:

- That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the street frontage) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

As of October 8, 2021, seven letters have been submitted in support of the request and no letters in opposition of the request.

If the board were to approve the request for a special exception to the sign regulations, the board may consider imposing a condition that the applicant complies with the submitted site plan and sign elevation.

Timeline:

August 13, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.

Sept. 16, 2021: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

Sept.17, 2021: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 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."

Sept. 24, 2021: The applicant provided evidence beyond what was submitted with the application (**Attachment A**).

Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

October 4, 2021: The Development Services Sign Inspector submitted comments detailing objection of the (**Attachment B**).

October 8, 2021: The applicant provided duplicate evidence as was provided on September 24th, however seven letters of support were attached (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING IN FAVOR: Danielle Mathews 2201 Main St. #1280 Dallas, TX
Dallas Cothrum 2201 Main St. #1280 Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Gambow

I move that the Board of Adjustment, in Appeal No. BDA 201-094, on application of Danielle Mathews of Masterplan, **grant** the request of this applicant to construct and maintain an additional detached on-premise sign in excess of the number permitted as a special exception

to the sign regulations contained in 51A-7.703(d)(2) of the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that strict compliance with the requirements of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

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 sign elevation is required.

SECONDED: Halcomb

AYES: 4 – Gambow, Halcomb, Narey, Neumann

NAYS: 1- Lamb

MOTION PASSED: 4-1

(Gambow/Halcomb: moved to reconsider the motion to grant the applicant's request at 4:33 p.m. After receiving additional information from staff, the board upheld its previous vote by unanimous consent)

FILE NUMBER: BDA201-099(PD)

BUILDING OFFICIAL'S REPORT: Application of Richard Dunham for special exceptions to the fence height and fence standards regulations at 6508 Ridgemont Drive. This property is more fully described as Lot 1, Block 15/5424, and is zoned an R-7.5(A) Single Family District, which limits the height of a fence in the front yard to four feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line. The applicant proposes to construct an eight-foot-high fence with fence panels that do not meet the minimum opacity requirement in a required front yard, which will require a four-foot special exception to the fence regulations and a special exception to the fence standards regulations.

LOCATION: 6508 Ridgemont Drive

APPLICANT: Richard Dunham

REQUEST:

The applicant proposes a fence of eight-feet in height, constructed of board-on-board cedar plank with green/pressure treated base boards and steel posts located along Ridgemont Drive at a length of 46 feet from the front property line. The portion of the fence fronting along Fisher Road proposes a depth of 84-feet-three-inches and provide the 20-foot visibility triangle along the unimproved alley the site is currently developed a one-story single-family dwelling unit.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single Family District)
North: R-7.5(A) (Single Family District)
East: R-7.5(A) (Single Family District)
South: R-7.5(A) (Single Family District)
West: R-7.5(A) (Single Family District)

Land Use:

The subject site is currently developed with a single-family dwelling unit. Surrounding properties to the north, east, south, and west are also developed with single-family uses.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

Two requests exist for the subject site. The first request for a special exception to the fence height regulations of four feet is made to construct and maintain an eight-foot-high fence which will require a four-foot special exception.

The second request for a special exception is made to the fence standards regulations to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line.

The property is currently being developed with an approximately 2,536-square-foot single-family dwelling. The applicant proposes to construct an eight-foot-high fence made of board-on-board cedar plank with green/pressure treated base boards and steel posts. Additionally, the fence is proposed to have two approximately 42-inch access gates that front along Ridgemont Drive and one approximately 84-inch double access gate along the rear yard fronting along the unimproved alley.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The

subject site is zoned an R-7.5(A) Single Family District and requires a minimum front yard setback of 25 feet.

The following information is shown on the submitted site plan:

- The proposed fence with access gates along Ridgemont Drive are setback 34 feet.
- The property contains two front yards along Ridgemont Drive and Fisher Road. Due to continuity of block face, the 25-foot front yard setback must be maintained for both front yards. Thus, the portion of the fence proposed along Fisher Road is located at the lot line and at its closest point appear to be approximately two-feet-six-inches from the back of curb/pavement line.
- Along Ridgemont Drive the fence is proposed at a width of approximately 46 feet and has a depth of 68-feet nine-and-one-half-inch along the western portion of the dwelling. The portion of the fence fronting along Fisher Road proposes a depth of 84-feet-three-inches and provide the 20-foot visibility triangle along the unimproved alley.

As of October 8, 2021, two letters have been submitted in opposition and no letters have been submitted in support of the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of eight feet located on Ridgemont Drive and Fisher Road will not adversely affect neighboring properties.

Granting the special exception to the fence standards related to the height and opacity would require the proposal exceeding four feet-in-height in the front yard setback located along Ridgemont Drive to be maintained in the locations, heights, and opacity/openness as shown on the site plan and elevation plan.

Timeline:

- August 24, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- Sept. 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- Sept. 17, 2021: The Board Senior Planner emailed the applicant the following information:
 - a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 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.

Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted with these requests.

October 7, 2021: The applicant submitted additional evidence for the board’s consideration (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING IN FAVOR: Rick Dunham 6508 Ridgemont Dr. Dallas, TX

APPEARING IN OPPOSITION: None

MOTION#1: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-099, on application of Richard Dunham, **grant** the request of this applicant to construct and/or maintain an eight-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

SECONDED: Halcomb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0-

MOTION PASSED: 5-0 (unanimously)

MOTION#2: Halcomb

I move that the Board of Adjustment, in Appeal No. BDA 201-099, on application of Richard Dunham, **GRANT** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

SECONDED: Narey

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0-

MOTION PASSED: 5-0 (unanimously)

(Gambow/Halcomb: moved to reopen motion at 4:33 p.m. Motion remains granted)

FILE NUMBER: BDA201-101(JM)

BUILDING OFFICIAL’S REPORT: Application of Jackson Walker L.L.P. to appeal the decision of the administrative official at 17776 Dallas Parkway. The property is more fully described as Lot 36A, Block 2/8705 and is zoned an MU-1 Mixed Use District, which requires that the building official shall not issue a certificate of occupancy if the building official determines that the use would be operated in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the issuance of a certificate of occupancy.

LOCATION: 17776 Dallas Parkway

APPLICANT: Jonathan Vinson, Jackson Walker L.L.P.

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official’s authorized representative, the Assistant Building Official in Development Services, to deny an application for a Certificate of Occupancy for a restaurant and/or commercial amusement (inside) use determined to be a gambling place, which does not comply with other regulations.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov’t Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: MU-1 Mixed Use District

North: MU-1 Mixed Use District

East: R-10(A) Single Family District
South: MU-1 Mixed Use District
West: MU-1 Mixed Use District

Land Use:

The subject site is developed with a vacant commercial structure. Surrounding land uses include a financial institution and restaurants to the north; single-family uses to the east; and, retail and restaurant uses to the south and across the Dallas North Tollway to the west.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

- September 7, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- September 16, 2021: The Board of Adjustment Chief Planner/Board Administrator randomly assigned this case to Board of Adjustment Panel A.
- September 17, 2021: The Board of Adjustment Chief Planner/Board Administrator emailed the public hearing date and panel that will consider the application; the September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:
- a copy of the application materials including the Building Official's report on the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the appeal of a decision of an administrative official procedure outline; and

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

September 28, 2021: The applicant submitted additional evidence (**Attachment A**).

September 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Board of Adjustment Senior Planner, the Transportation Senior Engineer, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

October 8, 2021: The applicant submitted additional evidence (**Attachment B**) and the representative for the City submitted evidence (**Attachment C**).

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING FOR PUBLIC TESTIMONY:

Bill Hoyt 4404 Creekmeadow Dr. Dallas, TX
 Spencer Caldwell 3532 Routh St. Dallas, TX
 Jeffrey Hurt 5012 Spyglass Dr. Dallas, TX
 Kerrie Smith 430 Forest Oaks Dr. Dallas, TX
 Vivian Unger 5115 Spyglass Dr. Dallas, TX
 Matthew Bach 1746 Covewood Cir Dallas, TX
 Christine Blount 2916 Independence Dallas, TX
 Cookie Peardon 7111 Debbe Dr. Dallas, TX
 Connie Trujillo 3901 Accent Dr. Dallas, TX
 Sandy Greyson 7238 Heathermore Dr. Dallas, TX
 Alan Bull 7406 Silvertrail Dallas, TX
 Aaron Dryva 17200 Westgrove Dr. Dallas, TX
 Kim Stone 1736 Lookout Dr. Dallas, TX
 Hayden Fortini 1736 Lookout Dr. Dallas, TX
 Doris Bonvino 5418 Harbor Town Dallas, TX
 Jason Campbell 2005 Fox Bend Trace Dallas, TX
 Danielle McWilliams 3901 Accent Dr. Dallas, TX
 David Phelps 3901 Accent Dr Dallas TX
 April Mohon 3901 Accent Dr Dallas, TX
 Roy Choi 17776 Dallas Pkwy. Dallas, TX
 Danielle McWilliams 3901 Accent Dr. Dallas, TX
 Susan Withrow 5124 Spyglass Dr. Dallas, TX

Venkatakrishnan Narayanan 17515 River Hill Dr. Dallas, TX
Frank Hirschenberger 4931 Stony Ford Dr Dallas, TX
Elizabeth Williams 1722 River Hill Dr. Dallas, TX
Jeremy Camp 5135 Summit Hill Dr. Dallas, TX
Kimberly Schultz 5104 Sea Pine Dr Dallas, TX
Thomas Dupree 5132 Bellerive Dr. Dallas, TX
Louis Mayberly 22080 Catfish Dr. Thackerville, OK
Stuart Bersma 5015 Bellerive Dr. Dallas TX
Leonardo Baker 4819 Rolling Wind Ct. Garland TX
Trent Touchstone 17776 Dallas Pkwy Dallas, TX
John Reynolds 3901 Accent Dr. Dallas, TX
Edward Pzutinger 21430 Park Royale Dr. Katy, TX
Isaac Trombo 6204 Belmont Ave. Dallas, TX
Robert Denenberi 4940 Cape Coral Dr. Dallas, TX
Georgia Katzen 4811 Sandestin Dr. Dallas, TX
Luke Franz 2323 Ross Ave Dallas, TX
Werner Heissenhuber Dallas Pkwy Dallas, TX
Suzan Kedron 2323 Ross Ave Dallas, TX

APPEARING IN FAVOR:

Gary Powell 1500 Marilla St. Dallas, TX
Megan Wimer 320 E. Jefferson Dallas, TX

APPEARING IN OPPOSITION:

Jonathan Vinson 2323 Ross Ave Dallas, TX

MOTION: Neumann

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 201-101, on application of Jonathan Vinson of Jackson Walker LLP, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **affirm** the decision of the administrative official and **deny** the relief requested by the applicant.

SECONDED: Gambow

AYES: 3 – Gambow, Narey, Neumann

NAYS: 1 -- Halcomb

MOTION PASSED: 3-1

MOTION: Neumann

I move to adjourn the Panel A hearing

SECONDED: Gambow

AYES: 4 - Gambow, Halcomb, Narey, Neumann

NAYS: 0 -

MOTION PASSED (unanimously): 4 - 0

2:58 P.M. Recess

3:05 P.M. Resume

5:45 P.M. Recess

5:51 P.M. Resume

7:00 P.M. Board Meeting adjourned for **October 19, 2021**



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.