

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, MARCH 17, 2015**

MEMBERS PRESENT AT BRIEFING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Paula Leone, regular member and Philip Lewis, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

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

MEMBERS PRESENT AT HEARING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Paula Leone, regular member and Philip Lewis, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator  
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Arborist, Chief Planner, Donna Moorman, Chief Planner and Trena Law, Board Secretary

**11:04 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **March 17, 2015** docket.

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**1:03 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.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel February 17, 2015 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

MOTION:           None

The minutes were approved without a formal vote.

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**FILE NUMBER:**     BDA 145-029

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin and Associates for special exceptions to the fence height regulations at 5522 Falls Road. This property is more fully described as Lot 3, Block 6/5607, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and limits the height of a fence in a side yard to 9 feet. The applicant proposes to construct an 11 foot 1 inch high fence in a required front yard, which will require a 7 foot 1 inch special exception to the fence height regulations and to construct a 12 foot 6 inch high fence in a required side yard, which will require a 3 foot 6 inch special exception to the fence height regulations.

**LOCATION:**           5522 Falls Road

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

**REQUESTS:**

The following requests have been made on a site being developed with a single family home structure/use:

1. A request for a special exception to the fence height regulations of 7' 1" is made to construct and maintain a fence in the site's 40' **front** yard setback that will reach 11' 1" in height; and
2. A request for a special exception to the fence height regulations of 3' 6" is made to construct and maintain a fence in the site's 10' **side** yard setback on the east side of the site that will reach 12' 6" in height.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 967-290, Property at 9750 Hollow Way Road (two lots west of the subject site)

On September 15, 1997, the Board of Adjustment Panel C granted requests for special exceptions to the fence height and visual obstruction regulations. The Board imposed the following conditions to these requests: compliance with the submitted elevation plan, and the amended site/landscape plan indicating no fence located in the Falls Road/Hollow Way Road visibility triangle is required. (This does not authorize the use of public right of way or authorize a license to use the public right-of-way for landscape materials).

The case report stated the requests were made to construct and maintain a 6' high open wrought iron fence with 6.5' high brick columns, and a 7' high open wrought iron pedestrian gate primarily along Hollow Way Road with a small length of fence along Falls Road, and to locate/maintain a small portion of the proposed fence, columns, and landscape materials in the drive approach visibility triangles into the site from Hollow Way Road and Falls Road.

### **GENERAL FACTS/STAFF ANALYSIS (front yard fence height special exception):**

- This request focuses on constructing and maintaining the following in the 40' **front** yard setback:
  - Parallel to the street: an approximately 90' long, 5' high open wrought iron fence with two entry features that include 8' high open wrought iron gates flanked by 6' – 7' high masonry walls and caps;
  - Perpendicular to the street on the east side: an approximately 38' long, 5' high open wrought iron fence, with 6'- 7' high masonry columns.
  - Perpendicular to the street on the west side: an approximately 23' long, 5' high open wrought iron fence, and an approximately 15' long, 10' 7" high fence (8' wood fence atop a 2' 7" high retaining wall) with 11' 1" high masonry columns.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a revised site plan/elevation of the proposal in the **front** yard setback indicating that it reaches a maximum height of 11' 1".
- The following additional information was gleaned from the submitted revised site plan:
  - The fence proposal is represented as being approximately 90' in length parallel to the street including two recessed entryway features.
  - The fence proposal is represented as being located approximately 2' from the front property line or about 14' from the pavement line.
  - The gate proposal is represented as being located approximately 5' from the front property line or about 17' from the pavement line.
- The fence proposal is located on the site where one lot would have direct/indirect frontage to it with no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area (Falls Road between Hollow Way Road and Hathaway Street) and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback – an approximately 6' high open wrought iron fence located two lots to the west of the subject site. The Board of Adjustment granted a fence height special exception on this property (BDA 967-290) in 1997 (see the "Zoning/BDA History" section of this case report for additional details).
- As of March 9, 2015, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 7' 1" will not adversely affect neighboring property.
- Granting this special exception of 7' 1" with a condition imposed that the applicant complies with the submitted revised site plan/elevation would require the proposal exceeding 4' in height in the **front** yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

### **GENERAL FACTS/STAFF ANALYSIS (side yard fence height special exception):**

- This request focuses on constructing and maintaining the following in the 10' **side** yard setback on the east side of the site: an approximately 70' long, 12' 6" high masonry fence with 12' 6" high columns.
- The Dallas Development Code states that in all residential districts except multifamily districts, a person shall not erect or maintain a fence in a required yard more than 9' above grade. In all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a revised site plan/elevation of the proposal in the **side** yard setback on its east side indicating that it reaches a maximum height of 12' 6".
- The following additional information was gleaned from the submitted revised site plan:
  - The fence proposal is represented as being approximately 70' long and located approximately 2' from the eastern side property line.
- The submitted revised site plan and elevation indicates that the fence proposal in the side yard is adjacent to a 12' 6" high tennis court fence on the property to the east.
- The Board Administrator conducted a field visit of the site and properties to the east and west and noted one other visible fence above 9 feet high which appeared to be located in a side yard setback – an approximately 12' high tennis court fence located immediately east of the subject site with no recorded BDA history.
- As of March 9, 2015, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 3' 6" will not adversely affect neighboring property.
- Granting this special exception of 3' 6" with a condition imposed that the applicant complies with the submitted revised site plan/elevation would require the proposal exceeding 9' in height in the **side** yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

### Timeline:

December 17, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 10, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 11, 2015: The Board Administrator contacted the applicant and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and

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

February 25, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm Street, #B, Dallas, TX  
 Mary Shores, 5522 Falls Road, Dallas, TX  
 Harold Leidner, 5931 Warm Mist, Dallas, TX

APPEARING IN OPPOSITION: No one

**MOTION #1: Leone**

I move that the Board of Adjustment, in request No. **BDA 145-029**, on application of Robert Baldwin, **grant** the request to construct and maintain a 11-foot 1-inch foot high fence in the property’s front yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: French**

AYES: 5 – Nolen, French, Rieves, Leone, Lewis

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**MOTION #2: Leone**

I move that the Board of Adjustment, in request No. **BDA 145-029**, on application of Robert Baldwin, **grant** the request to construct and maintain a 12-foot 6-inch foot high fence in the property’s side yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: French**

**AYES:** 5 – Nolen, French, Rieves, Leone, Lewis

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-033

**BUILDING OFFICIAL’S REPORT:** Application of Chris Hill for a special exception to the fence height regulations at 4717 Miron Drive. This property is more fully described as a one acre tract of land, Tract 3.1, Block 5556, 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 6 foot high fence, which will require a 2 foot special exception to the fence height regulations.

**LOCATION:** 4717 Miron Drive

**APPLICANT:** Chris Hill

**REQUEST:**

A request for a special exception to the fence height regulations of 2’ is made to construct and maintain a 6’ high open galvanized bar grate fence with a recessed 6’ high stone veneer fence/6’ high sliding galvanized solid steel gate on a site being developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

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

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

- This request focuses on constructing and maintaining a 6' high open galvanized bar grate fence with a recessed 6' high stone veneer fence/6' high sliding galvanized solid steel gate on a site being developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan and elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
  - The open bar grate fence proposal is represented as being approximately 130' in length parallel to the street and approximately 35' perpendicular to the street on the north side of the site in the front yard setback.
  - The solid stone veneer fence proposal is represented as being approximately 60' in length parallel yet recessed from the street.
  - The open bar grate fence proposal is represented to be located approximately on the front property line or about 15' from the pavement line.
  - The solid stone fence and steel gate proposal is represented to be located approximately 20' from the front property line or about 35' from the pavement line.
- The fence proposal is located on the site where one lot (undeveloped) would have direct frontage to it with no fence in its front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other visible fence above 4 feet high which appeared to be located in a

front yard setback – an approximately 5.5’ high open picket fence located immediately south of the subject site with no recorded BDA history.

- As of March 9, 2015, one letter has been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2’ will not adversely affect neighboring property.
- Granting this special exception of 2’ with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4’ in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

### **Timeline:**

January 13, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 10, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 11, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Lewis

I move to grant that the Board of Adjustment grant application **BDA 145-033** 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 is required.

**SECONDED:** Leone

**AYES:** 5 – Nolen, French, Rieves, Leone, Lewis

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-037

**BUILDING OFFICIAL’S REPORT:** Application of Robert Reeves of Robert Reeves and Associates for a special exception to the landscape regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD193 (HC), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 100 Crescent Court

**APPLICANT:** Robert Reeves of Robert Reeves and Associates

**REQUEST:**

A special exception to the landscape regulations is made to replace an existing drive-through bank facility with an approximately 3,000 square foot restaurant, and not fully providing required landscaping on a site is currently developed as an approximately 1,450,000 square foot mixed use development (The Crescent).

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

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section.

When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request in that the submitted revised alternate landscape proposal meets the spirit and intent of the PD 193 landscape requirements.

**BACKGROUND INFORMATION:**

Site: PD 193(HC) (Planned Development, Heavy Commercial)  
North: PD 193(HC) (Planned Development, Heavy Commercial)  
South: PD 193 (PDS 334) (Planned Development, Planned Development)  
East: PD 193(PDS 64) (Planned Development, Planned Development)  
West: PD 193(PDS 74) (Planned Development, Planned Development)

**Land Use:**

The subject site is developed with a mixed use development (The Crescent). The areas to the north, east, south, and west are developed with a mix of land uses.

**Zoning/BDA History:**

- |   |   |
|---|---|
| 1. BDA 134-042, Property at 100, Crescent Court (the subject site)                        | On June 24, 2014, the Board of Adjustment granted a request for special exception to the landscape regulations and imposed the submitted revised landscape plan as a condition. The case report stated the request was made to construct and maintain an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), and not fully providing required landscaping. (Note that the Board of Adjustment Panel C granted the applicant's request to waive the two year time limitation to refile a new application on this site on January 20, 2015). |
| 2. BDA 81-239A, Property at 100, 200, 300, 400, and 500 Crescent Court (the subject site) | On February 14, 1988, the Board of Adjustment granted a request for "a 599 parking space variance and eliminate the set-aside land provisions subject to a TMP program as per the memo from Ken   |

Melston, Manager of Transportation Engineering Services.

3. BDA 81-239, 239, Property at 2304 Cedar Springs Road (the subject site)

On October 13, 1981, the Board of Adjustment granted a 599 parking space variance, subject to a parking study to be conducted approximately one year after initial completion of the project

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

- This request focuses on replacing existing drive-through bank facility with an approximately 3,000 square foot restaurant, and not fully providing required landscaping on a site developed as an approximately 1,450,000 square foot mixed use development (The Crescent) .
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist states in a memo (see Attachment C) that the request in this case is triggered by new construction with a minor floor area increase on a developed lot.
- The Chief Arborist notes that the site is deficient in meeting the landscape requirements in that the proposed plan does not fully comply with sidewalk and tree planting zone requirements related to location.
- The Chief Arborist notes that the following factors for consideration:
  - the original permitting and construction of the development occurred prior to the creation of the Oak Lawn Special Purpose District PD 193.
  - Most perimeter trees initially planted are maturing and will remain with the new landscape design.
  - The entire site area will be subject to site amendments that will require some tree removal and mitigation. Tree replacement on site will exceed the inches removed.
  - The plan meets all other requirements for the PD 193 (HC) district.
  - The new plan provides for additional parking and a small structure while minimally impacting the overall landscape of the site and enhancing its pedestrian use.
- The Chief Arborist supports the request because the applicant has demonstrated that the submitted landscape plan meets the spirit and intent of the PD 193 regulations.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a landscape plan has been submitted that is deficient in meeting the sidewalk and tree planting zone requirements of the PD

193 landscape regulations) will not compromise the spirit and intent of Section 51P-193-126: "Landscape, streetscape, screening, and fencing standards".

- If the Board were to grant this request and impose the submitted landscape plan as a condition, the site would be granted exception from full compliance to sidewalk and tree planting zone requirements of the landscape requirements of the Oak Lawn PD 193 landscape ordinance.

**Timeline:**

January 12, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 10, 2015: 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."

February 10, 2015: The Board Administrator emailed the following information to the applicant:

- 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 February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 24, 2015: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

March 2, 2015: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).

March 5, 2015: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment C).

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Lewis**

I move to grant that the Board of Adjustment grant application **BDA 145-037** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required.

SECONDED: **Leone**

AYES: 5 – Nolen, French, Rieves, Leone, Lewis

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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FILE NUMBER: BDA 145-022

**BUILDING OFFICIAL’S REPORT:** Application of Michael Doggett for a special exception to the landscape regulations at 3133 E. Lemmon Avenue. This property is more fully described as Lot 4A, Block 978, and is zoned PD193 (GR), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 3133 E. Lemmon Avenue

APPLICANT: Michael Doggett

REQUEST:

A request for a special exception to the landscape regulations is made to maintain a retail use/structure (CVS) on a site, and not fully provide required landscaping.

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

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

**ORIGINAL STAFF RECOMMENDATION (February 17, 2015):**

Approval, subject to the following conditions:

1. Compliance with the submitted revised alternate landscape plan is required.
2. All surface parking screening required by ordinance must be installed and maintained with the exemption of a maximum of three feet width opening between the screening shrubs for each required tree in the planting row; the screening plantings must be capable of obtaining a solid appearance within three years from the date of the favorable action of the Board.

Rationale:

- The City of Dallas Chief Arborist supported the applicant's request with the staff suggested conditions imposed because the proposal did not compromise the spirit and intent of the PD 193 landscape requirements.

**REVISED STAFF RECOMMENDATION (March 17, 2015):**

Approval, subject to the following condition:

- Compliance with the submitted revised landscape plan dated 3-3-15 is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request with the staff suggested condition imposed because the revised proposal does not compromise the spirit and intent of the PD 193 landscape requirements.

**BACKGROUND INFORMATION:**

<u>Site:</u>	PD 193 (GR) (Planned Development, General Retail)
<u>North:</u>	PD 305 (Planned Development)
<u>South:</u>	PD 193 (LC) (Planned Development, Light Commercial)
<u>East:</u>	PD 372 (Planned Development)
<u>West:</u>	PD 193 (GR) (Planned Development, General Retail)

**Land Use:**

The subject site is developed with a retail use/structure (CVS). The areas to the north, south, east, and west are developed with mostly retail uses.

**Zoning/BDA History:**

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

**GENERAL FACTS/ STAFF ANALYSIS:**

- This request focuses on maintaining a retail use/structure, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, while that applicant had originally sought relief from fully complying with the surface parking screening, sidewalk, and tree requirements of the PD 193 landscape regulations, the applicant now seeks relief from only full compliance with the sidewalk requirements.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- Prior to the February 17<sup>th</sup> public hearing, the City of Dallas Chief Arborist had submitted a memo regarding the applicant's revised request (see Attachment B). The memo states how this request is triggered by new construction.
- The Chief Arborist's February 6<sup>th</sup> memo identified how the features shown on the applicant's revised landscape plan was deficient from surface parking screening (surface parking screening adjacent to Lemmon Avenue was interrupted by trees planted between shrubs), sidewalks (sidewalks along Lemmon Avenue were not 6' in width located between 5' – 12' from back of curb), and trees (none of the trees along Lemmon Avenue and McKinney Avenue were located within the tree planting zone).
- The Chief Arborist's February 6<sup>th</sup> memo listed a number of factors for consideration that pertain to surface parking screening, sidewalks, trees, and "additional information."
- Prior to the February 17<sup>th</sup> hearing, the Chief Arborist had recommended approval of the request because of his belief that the plan did not compromise the spirit and intent of the PD 193 landscape regulations. The arborist recommended that beyond the Board imposing the revised alternate landscape plan as a condition to the request, that they also impose the following: all surface parking screening required by ordinance must be installed and maintained with the exemption of a maximum of three feet width opening between the screening shrubs for each required tree in the planting row; the screening plantings must be capable of obtaining a solid appearance within three years.
- On March 3, 2015, a revised landscape plan that had been prepared by the applicant was forwarded to the Board Administrator by the Building Inspection Senior Plans Examiners/Development Code Specialist (see Attachment C).

- On March 6, 2015, the Chief Arborist submitted a revised memo regarding the applicant's revised request and revised landscape plan (see Attachment D). This memo stated that features shown on a revised landscape plan dated 3-3-15 is only deficient in that it does not comply with sidewalk requirements.
- The Chief Arborist's March 6<sup>th</sup> memo listed a number of factors for consideration that pertain to sidewalks, surface parking screening, trees, and "additional information."
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a revised landscape plan with a revision date of 2-12-15 has been submitted that is deficient in meeting the sidewalk requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P-193-126: "Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted revised landscape plan dated 3-3-15 as a condition, the site would be granted exception from full compliance to the sidewalk requirements of the Oak Lawn PD 193 landscape ordinance.

**Timeline:**

- December 18, 2014: 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 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 14, 2015: 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 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- February 3, 2015: 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 Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

February 5, 2015: The applicant submitted additional information to the Board Administrator beyond what was submitted in the original application (see Attachment A).

February 6, 2015: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment B).

February 17, 2015: The Board of Adjustment Panel A conducted a public hearing on this application. The applicant submitted a revised landscape plan to the Board at the public hearing. The Board delayed action on this application until their next hearing to be held on March 17, 2015.

February 28, 2015: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the February 25<sup>th</sup> deadline to submit additional evidence for staff review, and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

March 3, 2015: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised landscape plan submitted by the applicant to the Board Administrator (see Attachment C). (While this plan was noted with a revision date of 2-12-15, the Chief Arborist informed the Board Administrator that notes/revisions were made to this plan after this date hence a received date by the Board Administrator of 3-3-15 was noted on this plan by the Board Administrator).

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

March 6, 2015: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment D).

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 17, 2015**

**APPEARING IN FAVOR:** Robert Baldwin, 3904 Elm Street, Dallas, TX

**APPEARING IN OPPOSITION:** Anthony Page, 100 Crescent Ct., Dallas, TX  
Micah Byrnes, 2320 N Houston #1902, Dallas, TX  
Brenda Marks, 3926 Gilbert Ave., Dallas, TX

**MOTION:** Rieves

I move that the Board of Adjustment in appeal No. **BDA 145-022** hold this matter under advisement until **March 17, 2015**.

**SECONDED:** Nolen

**AYES:** 5 – Nolen, French, Rieves, Bartos, Agnich

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

**APPEARING IN FAVOR:** Robert Baldwin, 3904 Elm Street, Dallas, TX  
Anthony Page, 100 Crescent Ct., Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** French

I move that the Board of Adjustment, in request No. **BDA 145-022**, on application of Michael Doggett, **grant** the request to provide an alternate landscape plan as a special exception to the landscape regulations in PD193(GR) because our evaluation of the property and the testimony shows that the special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following conditions be imposed to further the purpose and intent of the Oak Lawn Ordinance:

- Compliance with the submitted revised alternate landscape plan dated March 3, 2015 is required.

**SECONDED:** Nolen

**AYES:** 5 – Nolen, French, Rieves, Leone, Lewis

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-036

**BUILDING OFFICIAL'S REPORT:** Application of Adelmo Becerro, represented by Elias Rodriguez, for a variance to the front yard setback regulations at 1139 Lufkin Street. This property is more fully described as a part of Lot 3, Block 1/6682, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes

to construct and/or maintain a structure and provide a 15 foot front yard setback (16 feet at the foundation with a 1 foot eave), which will require a 10 foot variance to the front yard setback regulations.

**LOCATION:** 1139 Lufkin Street

**APPLICANT:** Adelmo Becerro  
Represented by Elias Rodriguez

**REQUEST:**

A request for a variance to the front yard setback regulations of 10' is made to maintain an approximately 160 square foot addition to a one story, approximately 1,000 square foot single family home, part of which is located 15' (roof eave) from one of the site's two front property lines (Elf Street) or 10' into this 25' front yard setback.

(No variances are requested to remedy any nonconforming structure or for any structure to be located in the site's 25' front yard setback along Lufkin Street).

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While the subject site is unique and different from most lots zoned R-7.5(A) in that it has two front yard setbacks, the applicant had not substantiated at the time of the March 3<sup>rd</sup> staff review team meeting how the features of the flat, rectangular-shaped, and approximately 9,700 square foot lot precluded him from developing it in a manner commensurate with other developments found on similarly-zoned R-7.5(A). While the site has two 25' front yard setbacks, the site is over 2,000 square

feet larger than most lots in the R-7.5(A) zoning district with 7,500 square feet. The two front yard setbacks do not appear to restrict the applicant from developing/maintaining it with a commensurately-sized single family home structure/use that can comply with setbacks.

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

The subject site is developed with a single family home structure. 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.

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

- This request focuses on maintaining an addition made to an existing single family home structure, part of which is located 15' from one of the site's two 25' front property lines: Elf Street. (No variance is requested to locate any structure in the site's 25' front yard setback along Lufkin Street).
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The subject site is located at the northwest corner of Lufkin Street and Elf Street. Regardless of how the existing structure is oriented to front Lufkin Street, the subject site has two 25' front yard setbacks along both streets. The site has a 25' front yard setback along Lufkin Street, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 25' front yard setback along Elf Street, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 5' side yard setback is required. But the site's Elf Street frontage that functions as side yard on the property is treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots to the west zoned R-7.5(A) that front/are oriented southward towards Elf Street.
- A scaled site plan has been submitted indicating that a portion of the existing single family home is to be located 16' 1" from the Elf Street front property line or approximately 10' into this 25' front yard setback to accommodate a roof eave that is 15' from the Elf Street property line.

- According to DCAD records, the “main improvement” for property addressed at 1139 Lufkin Street is a structure built in 1949 with 480 square feet of living/total area with no “additional improvements.”
- The applicant has chosen only to seek variance to the front yard setback regulations for the addition to the existing structure on the site, and to not seek variance to remedy/address the nonconforming aspect of the existing nonconforming main single family home structure or the existing detached garage accessory structure that are also located in the site’s Elf Street front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner’s agent.
- The subject site is flat, rectangular in shape (103’ x 94’), and according to the submitted application is 0.223 acres (or approximately 9,700 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- Most lots in R-7.5(A) zoning have one 25’ front yard setback, two 5’ side yard setbacks, and one 5’ rear yard setback; this site has two 25’ front yard setbacks and two 5’ side yard setbacks.
- According to calculations taken by the Board Administrator from the submitted site plan, the addition in the Elf Street front yard setback accounts for about 16 percent of the total square footage of the existing single family home on the subject site.
- The 94’ wide subject site has approximately 64’ of developable width available once a 25’ front yard setback is accounted for on the south and a 5’ side yard setback is accounted for on the north. If the lot were more typical to others in the zoning district with only one front yard setback, the 94’ wide site would have 84’ of developable width.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) 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 R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a portion of a structure located as close as 15’ from the site’s Elf Street front property line (or 10’ into this 25’ front yard setback).

- Granting this request for variance would not provide relief to remedy any nonconforming structure on the site or any existing/proposed noncompliance with the fence height regulations.

**Timeline:**

January 14, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 10, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 11, 2015: The Board Administrator shared the following information with the applicant’s representative via email:

- 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 February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

February 20, 2015: The Board Administrator shared the following additional information with the applicant’s representative via email:

- an attachment that provided the section from the Dallas Development Code regarding nonconforming uses; and
- the note that unless he is informed otherwise by noon, Wednesday, February 25<sup>th</sup>, an assumption will be made that the request for variance to the front yard setback regulations in this case is only made to address/remedy the 161 square foot addition to the existing frame home that is located in the Elf Street front yard setback and NOT to address/remedy any nonconforming structures that are also located in the Elf Street front yard setback.”

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

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

**APPEARING IN OPPOSITION:** No one

**MOTION: Rieves**

I move that the Board of Adjustment, in request No. **BDA 145-036**, on application of Adelmo Becerro, represented by Elias Rodriguez, **grant** a 10-foot variance to the front yard setback regulations because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. 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 is required.

**SECONDED: Leone**

**AYES:** 5 – Nolen, French, Rieves, Leone, Lewis

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-039

**BUILDING OFFICIAL’S REPORT:** Application of Scott G. Night for a special exception to the visual obstruction regulations at 6834 Aberdeen Avenue. This property is more fully described as Lot 12, Block M/5489, and is zoned R-7.5(A), which requires a 45 foot visibility triangle at street intersections. The applicant proposes to maintain items within a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 6834 Aberdeen Avenue

**APPLICANT:** Scott G. Night

**March 17, 2015 Public Hearing Notes:**

- The Board Administrator circulated a revised site plan and email to the Board at the briefing – an email that included the Sustainable Development and Construction Department Project Engineer’s support of the applicant’s amended request.

**REQUEST:**

A request for a special exception to the visual obstruction regulations is made to maintain six approximately 6' – 7' high holly trees (with circumferences of 10' - 45'), two approximately 16' high crepe myrtles (with circumferences of 38' – 41'), and one approximately 27' high tree located in the 45' visibility triangle at the intersection of Hillcrest Road and Aberdeen Avenue on a site developed with a single family home use.

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer had recommended that this application be denied.
- At the time of the March 3<sup>rd</sup> staff review team meeting, the applicant had not substantiated how maintaining certain landscape materials in the 45' visibility triangle at the intersection of Aberdeen Avenue and Hillcrest Road does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on maintaining six approximately 6' – 7' high holly trees (with circumferences of 10' - 45'), two approximately 16' high crepe myrtles (with circumferences of 38' – 41'), and one approximately 27' high tree located in the 45' visibility triangle at the intersection of Hillcrest Road and Aberdeen Avenue on a site developed with a single family home use.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A revised site plan and revised elevation documents have been submitted indicating the locations of the previously mentioned landscape items located in the 45' visibility triangle at the intersection of Hillcrest Road and Aberdeen Avenue.
- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked “recommends that this be denied.”
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to maintain portions of six approximately 6' – 7' high holly trees (with circumferences of 10' - 45'), two approximately 16' high crepe myrtles (with circumferences of 38' – 41'), and one approximately 27' high tree in the 45' visibility triangle at the intersection of Aberdeen Avenue and Hillcrest Road does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation documents would require the items (six approximately 6' – 7' high holly trees (with circumferences of 10' - 45'), two approximately 16' high crepe myrtles (with circumferences of 38' – 41'), and one approximately 27' high tree on the applicant's property) to be limited to and maintained in the locations, heights, and materials as shown on these documents.

**Timeline:**

- January 21, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 10, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 12, 2014: The Board Administrator contacted the applicant and emailed him 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 February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;

and the March 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;

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

February 25, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

March 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

March 6, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

March 6, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request marked "Recommends that this be denied."

### **BOARD OF ADJUSTMENT ACTION: MARCH 17, 2015**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Lewis

I move to grant that the Board of Adjustment grant application **BDA 145-039** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan indicating a 30 foot visibility triangle is required.

**SECONDED:** Leone

**AYES:** 5 – Nolen, French, Rieves, Leone, Lewis

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

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MOTION: **Nolen**

I move to adjourn this meeting.

SECONDED: **Rieves**  
AYES: 5 – Nolen, French, Rieves, Leone, Lewis  
NAYS: 0 -  
MOTION PASSED: 5 – 0 (unanimously)

**1:38 P. M.:** - Board Meeting adjourned for **March 17, 2015**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

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