

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, MAY 18, 2016**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Larry Brannon, regular member, Alex Winslow, regular member, Wini Cannon, regular member, and Philip Lewis, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, Larry Brannon, regular member, Alex Winslow, regular member, Wini Cannon, regular member, and Philip Lewis, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Mary McCollough, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Clay Buehrle, Engineering, Jennifer Munoz, Senior Planner, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Mary McCollough, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Clay Buehrle, Engineering, Jennifer Munoz, Senior Planner, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

11:07 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 18, 2016 docket.**

1:05 P.M.
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B April 20, 2016 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

MOTION: None

The minutes were approved.

FILE NUMBER: BDA156-045(SL)

BUILDING OFFICIAL’S REPORT: Application of Tony Visconti, represented by Darren Marlowe, for a special exception to the fence height regulations at 4926 Deloache Avenue. This property is more fully described as Lot 12, Block 11/5584, 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 10 foot 6 inch high fence, which will require a 6 foot 6 inch special exception to the fence height regulations.

LOCATION: 4926 Deloache Avenue

APPLICANT: Tony Visconti
Represented by Darren Marlowe

REQUEST:

A request for a special exception to the fence height regulations of 6’ 6” is made to construct and maintain the following fence proposal in the front yard setback on a site being developed with a single family home:

- a 6’ 3” high open wrought iron fence with 7’ high cement plaster columns,
- an approximately 8’ high open metal pedestrian gate with approximately 8’ high cement plaster columns topped with approximately 2’ high decorative urns, and
- an approximately 9’ 6” high open metal vehicular entry gate with approximately 8’ 6” high cement plaster columns topped with 2’ high decorative urns.

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 being 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. BDA156-007, Property at 4926 Deloache Avenue (the subject site)

On February 17, 2016, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 6' 6" without prejudice. The case report stated that the request was made to construct/maintain a 6' 3" high open wrought iron fence with 7' high cement plaster columns, an approximately 8' high open metal pedestrian gate with approximately 8' high cement plaster columns topped with approximately 2' high decorative urns, and an approximately 9' 6" high open metal vehicular entry gate with approximately 8' 6" high cement plaster columns topped with 2' high decorative urns.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 6' 3" high open wrought iron fence with 7' high cement plaster columns, an approximately 8' high open metal pedestrian gate with approximately 8' high cement plaster columns topped with approximately 2' high decorative urns, and an approximately 9' 6" high open metal vehicular entry gate with approximately 8' 6" high cement plaster columns topped with 2' high decorative urns 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 subject site is zoned R-1ac(A) and has a 40' front yard setback.
- The applicant has submitted two documents – a site plan, and a partial site plan/full elevation of the proposal with notations indicating that the proposal reaches a maximum height of 10' 6".
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 170' in length parallel to the street, and approximately 30' in length perpendicular to the street on the east and west sides of the site in the front yard setback.
 - The proposed fence is represented as being located approximately 10' from the front property line, or approximately 19' from the pavement line.
 - The proposed gates are represented as being located approximately 15' from the front property line, or approximately 24' from the pavement line.
- Two single family lots front the proposed fence, one with a fence in its front yard that appears lower than 4' high, and the other with an approximately 6' high open metal fence with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area (properties along Deloache Avenue from Sunnybrook Lane on the west to approximately 300 feet to the east of the site) and noted no other fences over 4' in height and in front yard setbacks other than the one previously mentioned located northwest of the subject site.
- As of May 6, 2016, two letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 6' 6" will not adversely affect neighboring property.
- Granting this special exception of 6' 6" with a condition imposed that the applicant complies with the submitted site plan and partial site plan with 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:

March 3, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

- April 12, 2016: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- April 27, 2016: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachments A and B).
- May 2, 2016: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment C).
- May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.
- No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

APPEARING IN FAVOR: Pat Ford, 633 N Manus, Dallas, TX
 Darren Marlowe, 6709 Vanderbilt Ave, Dallas, TX
 Tony Visconti, 4850 Longview Dr, Frisco, TX

APPEARING IN OPPOSITION: No one

MOTION: Cannon

I move that the Board of Adjustment, in Appeal No. **BDA156-045**, on application of Tony Visconti, **grant** the request to construct and maintain a 10-foot 6-inch-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 condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Winslow

AYES: 4 – Hounsel, Winslow, Cannon, Lewis

NAYS: 1 – Brannon

MOTION PASSED 4 – 1

FILE NUMBER: BDA156-047(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for special exceptions to the mandatory pedestrian skybridge standards at 504 N. St. Paul Street. This property is more fully described as Lot 2, Block 2/243, and is zoned CA-1(A), which requires that if a pedestrian skybridge has a length of less than 150 feet, the interior passageway must be no less than 10 feet in width, and that a pedestrian skybridge must not be located within 300 feet of an historic overlay district. The applicant proposes to construct and maintain a pedestrian skybridge with a width of 6 feet 6 inches, and located within 300 feet of an historic overlay district which will require special exceptions to the mandatory pedestrian skybridge standards.

LOCATION: 504 N. St. Paul Street

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUESTS:

Requests for special exceptions to the mandatory pedestrian skybridge standards are made to construct and maintain a pedestrian skybridge over an alley (Wenchell Lane) that would connect an existing church structure to a proposed parking garage:

1. With an interior passageway width of 6’ 6” (or 3’ 6” less in width than the required minimum width of 10’); and
2. On a site located approximately 77’ from the U.S. Post Office protected by H/23 Historic District (or a skybridge on a site 223’ closer than the required 300’ distance of an historic overlay district).

STANDARD FOR A SPECIAL EXCEPTION TO THE MANDATORY PEDESTRIAN SKYBRIDGE STANDARDS:

Section 51A-4.217 of the Dallas Development Code states that the board of adjustment may grant a special exception to the pedestrian skybridge standards if the board finds that:

- Strict compliance with the requirements will unreasonably burden the use of either of the properties;
- The special exception will not adversely affect neighboring property; and

- The special exception will not be contrary to the public interest.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the pedestrian skybridge standards since the basis for this type of appeal is if the board finds that: strict compliance with the requirements will unreasonably burden the use of either of the properties; the special exception will not adversely affect neighboring property; and the special exception will not be contrary to the public interest.

BACKGROUND INFORMATION:

Zoning:

Site: CA-1(A) (Central Area)
North: CA-1(A) (Central Area)
South: CA-1(A)H/23 (Central Area)(Historic)
East: CA-1(A) (Central Area)
West: CA-1(A) (Central Area)

Land Use:

The proposed skybridge would connect an existing church structure proposed parking garage over Wenchell Lane. The areas to the north, east, south, and west are developed with mostly with office uses.

Zoning/BDA History:

1. BDA089-051, Property at 515 N. St. Paul Street and 608 N. St. Paul Street (the subject site)

On April 15, 2009, the Board of Adjustment Panel B granted special exceptions to the pedestrian skybridge standards.

The case report states that the request were made to construct and maintain a pedestrian skybridge over St. Paul Street 166' feet from a historic overlay district – The Downtown US Post Office (134' closer than the required 300' distance) and with an interior passageway of 21' (or 1' wider than the 20' width allowed by code. The proposed skybridge would connect a proposed new sanctuary structure use to a proposed new children's education building.

2. BDA156-046, Property at 540 N. St. Paul Street (part of the subject site)

On May 18, 2016, the Board of Adjustment Panel B will consider a request for a special exception to the visual obstruction regulations made to construct and maintain a parking garage structure in the 20' visibility triangle where an alley intersects with N. St. Paul Street on a site developed with a surface parking lot use.

GENERAL FACTS/STAFF ANALYSIS:

- These requests focus on constructing and maintaining a pedestrian skybridge over an alley (Wenchell Lane) that would connect an existing church structure to a proposed parking garage that with an interior passageway width of 6' 6" (or 3' 6" less in width than the required minimum width of 10'); and on a site located approximately 77' from the U.S. Post Office protected by H/23 Historic District (or a skybridge on a site 223' closer than the required 300' distance of an historic overlay district). (Note that while the applicant has originally requested a special exception to allow the proposed skybridge to be located within the same block as an existing pedestrian skybridge, this request was removed by the applicant given the determination by Building Inspection that this request was not necessary).
- The Dallas Development Code provides the following purpose statement related to pedestrian skybridges: The purpose of this section is to promote the health, safety, and general welfare of persons and property within the city by providing for the structural integrity of pedestrian skybridges over public right-of-ways; preventing visual obstruction of public right-of-ways and urban landscapes; facilitating the flow of traffic; encouraging use of public skybridges by pedestrians through well designed additions to the existing pedestrian system; minimizing the negative impact of pedestrian skybridges on adjoining properties, communication and utility company facilities, and public street lighting and safety facilities; and establishing standards for construction and maintenance of pedestrian skybridges.
- The Dallas Development Code provides 19 mandatory skybridge provisions of which the applicant seeks special exceptions from the following two:
 1. If a pedestrian skybridge has a length of less than 150 feet, the interior passageway must be no less than 10 feet and no greater than 20 feet in width. (The applicant has submitted a "bridge section" document a width of approximately 6' 6").
 2. Pedestrian skybridges must not be located within 300 feet of an historic overlay district. (The applicant has stated that the special exception request site is 77' from the U.S. Post Office protected by H/23 Historic District).
- The applicant has the burden of proof in establishing how strict compliance with the skybridge standards (constructing/maintaining a pedestrian skybridge that would have an interior passageway width of less than 10 feet; and would be located within 300' of an historic overlay district) will unreasonably burden the use of either of the properties; that the special exceptions will not adversely affect neighboring property; and the special exceptions will not be contrary to the public interest.

Timeline:

February 26, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

April 12, 2016: 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

May 4, 2016: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator (see Attachment A).

May 4, 2016: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Winslow

I move to grant that the Board of Adjustment grant application **BDA 156-047** 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.

SECONDED: Cannon

AYES: 4 – Hounsel, Winslow, Cannon, Lewis

NAYS: 1 – Brannon

MOTION PASSED 4 – 1

FILE NUMBER: BDA156-049(JM)

BUILDING OFFICIAL’S REPORT: Application of Don Robinson, represented by Stephen Hundley, for special exceptions to the fence height regulations at 5953 Walnut Hill Lane. This property is more fully described as Lot 5, Block 3/5515, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence, which will require 4 foot special exceptions to the fence height regulations.

LOCATION: 5953 Walnut Hill Lane

APPLICANT: Don Robinson
Represented by Stephen Hundley

REQUEST:

A request for special exceptions to the fence height regulations of 4’ are made to construct and maintain an 8’ cedar fence along both Walnut Hill Lane, and Preston Road.

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-10(A) (Single family district 10,000 sq. ft.)
North: R-10(A) (Single family district 10,000 sq. ft.)
South: R-1 acre (A) (Single family district 1 acre)
East: R-10(A) (Single family district 10,000 sq. ft.)
West: R-10(A) (Single family district 10,000 sq. ft.)

Land Use:

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

Zoning/BDA History:

1. BDA056-045,
Property at 5952
Walnut Hill Lane aka
9625 Preston Road
(lot south of the
subject site) On December 13, 2005, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 10' 6" and imposed the following conditions: 1) Compliance with the submitted revised site plan and elevations dated 12/2/05 is required; and 2) The gazebo structure on the site plan is not part of this approved request. The case report stated that the request was made in conjunction with constructing and maintaining primarily a 6' 4" high stone wall* with approximately 7' high stone columns with 11' 4" high gates (one gate on Preston Road, the other gate on Walnut Hill Lane) with 12' high entry columns in the 40' Preston Road and Walnut Hill Lane front yard setbacks. Each entry gate was proposed to be flanked by a curved entry wing wall that ranges from 7' 6" to 10' 2" in height. However, on November 28, 2005, a revised site plan and elevations were submitted that created a need to increase the special exception to 10' 6". The special exception was amended to account for entry columns that were raised from 12' to 14' 6" in height.

2. BDA089-055,
Property at 5943
Walnut Hill Lane (lot
west of the subject
site)

On May 19, 2009, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 9' and imposed the following conditions: 1) Compliance with the submitted site plan and elevations. The case report stated that the request was made in conjunction with constructing and maintaining primarily a 6' 3" high open wrought iron fence and solid masonry wall with approximately 7' 6" high masonry columns parallel and perpendicular to Walnut Hill Lane on the east side of the subject site; an 8' high board-on-board fence/wall perpendicular to Walnut Hill Lane on the west side of the subject site; two approximately 10' 6" high open wrought iron entry gates flanked with approximately 10' 6" high masonry columns and 6' 6" – 8' 6" high solid masonry wing walls; and a 13' high solid masonry pedestrian gate.

GENERAL FACTS/STAFF ANALYSIS:

- The current request is for an 8' high cedar board-on-board privacy fence within the 30' front yard building setbacks along the two front yards of the subject site on Walnut Hill Lane and Preston Road.
- 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 subject site is zoned R-10(A) and has a 30' front yard setback. Corner lots in residential zones must comply with setbacks for the building block. The subject site is determined to have two front yards.
- The applicant has submitted a site plan/elevation of the proposal with notations indicating that the proposal reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 100' in length parallel to Preston Road before providing a 45' corner clip as required, and including the gated entryway fencing, in the 30' front yard setback cornering towards Walnut Hill Lane. Then, the fence continues about 110' along Walnut Hill Lane before providing the required 20' corner clip for the west gate entryway.
 - The proposal is represented as being located either at the property line (along Preston Road) or behind the property line, with approximately 2' from the existing sidewalk (along Walnut Hill Lane).
- All surrounding properties have fences and shrubs higher than the 4' maximum. Some of those sites obtained special exceptions from the Board.
- As May 6, 2016, no letters have been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal

exceeding 4' in height in the front yard setback to be modified and maintained in the location and of the heights and materials as shown on this document.

Timeline:

June 3, 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.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

April 15, 2016: 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Winslow

I move to grant that the Board of Adjustment grant application **BDA 156-049** 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/elevation is required.

SECONDED: Cannon

AYES: 4 – Hounsel, Winslow, Cannon, Lewis

NAYS: 1 – Brannon

MOTION PASSED 4 – 1

FILE NUMBER: BDA156-053(SL)

BUILDING OFFICIAL’S REPORT: Application of Arash Afzalipour, represented by Michael R Coker, for a special exception to the fence height regulations at 9362 Hollow Way Road. This property is more fully described as Lot 19B, Block 5597, 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 and maintain a 10 foot high fence, which will require a 6 foot special exception to the fence height regulations.

LOCATION: 9362 Hollow Way Road

APPLICANT: Arash Afzalipour
Represented by Michael R Coker

REQUEST:

A request for a special exception to the fence height regulations of 6’ is made to complete and maintain the following in the 40’ front yard setback on a site that is being developed with a single family home/use:

- mostly a 6’ – 6’ 6” high “decorative wrought iron” fence with 8’ high masonry columns parallel to the street;
- two entry features: on the north side, an 8’ – 8’ 6” high “secondary” entry gate with 8’ high columns; on the south side, a 10’ high “main” entry gate with 10’ high columns flanked by two approximately 10’ long, 8’ high solid masonry wing walls; and
- a 6’ high solid masonry fence with a 7’ high stone column perpendicular to the street on the south side of the site in the 40’ front yard setback, and a 7’ 9” high solid masonry fence with an 8’ stone column perpendicular to the street on the north side of the site in the 40’ front yard setback.

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

Zoning/BDA History:

1. BDA145-010, Property at 9362 Hollow Way Road (the subject site)

On January 21, 2015, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 6' and imposed the submitted site plan with elevation as a condition.

The case report stated that the request was made to construct/maintain a 6' – 6' 6" high "decorative wrought iron" fence with 8' high masonry columns parallel to the street; two entry features: on the north side, a 7' – 7' 6" high "secondary" entry gate with 7' high columns; on the south side, a 10' high "main" entry gate with 10' high columns flanked by two approximately 10' long, 8' high solid masonry wing walls; and 6' high solid masonry fences with 7' high stone columns perpendicular to the street on the north and south sides of the site in the 40' front yard setback.

2. BDA 989-150, property at 5506 Deloache Avenue (the lot north of the subject site)

On January 19, 1999, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 6" and imposed the submitted revised site plan, landscape plan, and elevation as a condition.

The case report stated that the request was made in conjunction with constructing and maintaining a 6' predominantly open metal fence, 6' 6" high brick columns, 7' 4" high brick entry columns, and a 7' high open metal entry gate in the front yard setback along Deloache Avenue and Hollow Way Road.

3. BDA 978-106, property at 5424 Deloache Avenue (the lot northwest of the subject site)

On December 16, 1997, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' and imposed the submitted revised site/landscape plan and elevation plan as a condition.

The case report stated that the request was made in conjunction with replacing an existing fence with a predominantly open 8' high metal fence in the front yard setback along Deloache Avenue.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining the following in the front yard setback on a site being developed with a single family home/use:
 1. mostly a 6' – 6' 6" high “decorative wrought iron” fence with 8' high masonry columns parallel to the street;
 2. two entry features: on the north side, an 8' – 8' 6" high “secondary” entry gate with 8' high columns; on the south side, a 10' high “main” entry gate with 10' high columns flanked by two approximately 10' long, 8' high solid masonry wing walls; and
 3. a 6' high solid masonry fence with a 7' high stone column perpendicular to the street on the south side of the site in the 40' front yard setback, and a 7' 9" high solid masonry fence with an 8' stone column perpendicular to the street on the north side of the site in the 40' front yard setback.
- This special exception is almost identical to a request for special exception to the fence height regulations granted by the Board of Adjustment Panel B in January of 2015: BDA145-010. The applicant has filed a new application on the subject site because he did not file a permit within 180 days from the Board's favorable action on January 21, 2015, and because he is no longer proposing to fully adhere to the conditions imposed upon him by the Board in 2015: he has increased the height of the proposal on the northern side of the site given grade changes by 1': the

“secondary entry gate” and the fence/column to the north of this gate is now requested to be 8’ – 8’ 6”, 7’, and 8’ in height, respectively.

- 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/elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 10’.
- The following additional information was gleaned from the submitted site plan/elevation and gate elevation:
 - The fence proposal is represented as being approximately 200’ in length parallel to the street, and approximately 40’ in length perpendicular to the street on the north and south sides of the site in the front yard setback.
 - The fence and secondary gate proposal is represented as being located approximately on the front property line or about 22’ from the pavement line. (The proposed main gate is represented as being located approximately 6’ from the property line or approximately 28’ from the pavement line).
- The fence proposal is located on the site where no lot would have direct frontage to it – the homes to the west face either southward to Dentwood Drive or northward to Deloache Avenue.
- 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 6’ high solid board fence located immediately north of the subject site. The Board of Adjustment granted a fence height special exception on this adjacent property to the north (BDA 989-150) in 1999 (see the “Zoning/BDA History” section of this case report for additional details).
- As of May 6, 2016, 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 6’ will not adversely affect neighboring property.
- Granting this special exception of 6’ with a condition imposed that the applicant complies with the submitted 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.

Timeline:

March 23, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

April 12, 2016: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Winslow**

I move to grant that the Board of Adjustment grant application **BDA 156-053** 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/elevation is required.

SECONDED: Cannon

AYES: 4 – Hounsel, Winslow, Cannon, Lewis

NAYS: 1 – Brannon

MOTION PASSED 4 – 1

FILE NUMBER: BDA156-046(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the visual obstruction regulations at 504 N. St. Paul Street. This property is more fully described as Lot 2, Block 2/243, and is zoned CA-1(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 504 N. St. Paul Street

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the visual obstruction regulations is made to construct and maintain a parking garage structure in the 20' visibility triangle where an alley intersects with N. St. Paul Street on a site developed with a surface parking lot 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 recommended that this request be denied commenting "The proposed structure encroaching within the visibility triangle creates a safety hazard to pedestrian traffic."
- The applicant had not substantiated how the location of the proposed structure in the 20' visibility triangle where an alley intersects with N. St. Paul Street does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	CA-1(A) (Central Area)
<u>North:</u>	CA-1(A) (Central Area)
<u>South:</u>	CA-1(A)H/23 (Central Area)(Historic)
<u>East:</u>	CA-1(A) (Central Area)
<u>West:</u>	CA-1(A) (Central Area)

Land Use:

The subject site is developed as a surface parking lot. The areas to the north, east, south, and west are developed with mostly with office uses.

Zoning/BDA History:

1. BDA156-047, Property at 504 N. St. Paul Street (part of the subject site) On May 18, 2016, the Board of Adjustment Panel B will consider a special exceptions to the mandatory pedestrian skybridge standards are made to construct and maintain a pedestrian skybridge over Wenchell Lane that would connect an existing church structure to a proposed parking garage that would have an interior passageway width of less than 10 feet; and would be located within 300' of an historic overlay district.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a parking garage structure in the 20' visibility triangle where an alley intersects with N. St. Paul Street on a site developed with a surface parking lot 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).
- The Dallas Development Code states the term "visibility triangle" means in all zoning districts, "the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and an adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and

points on the driveway or alley edge and the street curb line 20 feet from the intersection.”

- The applicant has submitted a site plan and an elevation indicating a parking garage structure to be located in the 20’ visibility triangle where an alley intersects with N. St. Paul Street.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” commenting: “The proposed structure encroaching within the visibility triangle creates a safety hazard to pedestrian traffic.”
- The applicant has the burden of proof in establishing how granting this request for a special exception to the visual obstruction regulations to construct and maintain a parking garage structure in the 20’ visibility triangle where an alley intersects with N. St. Paul Street does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20’ visibility triangle where an alley intersects with N. St. Paul Street to that what is shown on these documents – a parking garage structure.

Timeline:

February 26, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

April 12, 2016: 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 6th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

May 5, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting: "The proposed structure encroaching within the visibility triangle creates a safety hazard to pedestrian traffic."

BOARD OF ADJUSTMENT ACTION: MAY 18, 2016

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA156-046**, hold this matter under advisement until **June 29, 2016**.

SECONDED: **Cannon**

AYES: 5 –Hounsel, Brannon, Winslow, Cannon, Lewis

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION: **Cannon**

I move to adjourn this meeting.

SECONDED: **Winslow**

AYES: 5 –Hounsel, Brannon, Winslow, Cannon, Lewis

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

1:38 P.M. Board Meeting adjourned for **May 18, 2016**

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.