

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, 6ES AUDITORIUM
TUESDAY, NOVEMBER 17, 2015**

MEMBERS PRESENT AT BRIEFING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Michael Gibson, regular member and Jim Gaspard alternate member

MEMBERS ABSENT FROM BRIEFING: Charles Johnson, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Lam, Engineering, David Cossum, Director, Neva Dean, Interim Asst. Director, Donna Moorman, Chief Planner and Trena Law, Board Secretary, Zachary Noblitt, Asst. City Attorney

MEMBERS PRESENT AT HEARING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Michael Gibson, regular member and Jim Gaspard alternate member

MEMBERS ABSENT FROM HEARING: Charles Johnson, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Lam, Engineering, David Cossum, Director, Neva Dean, Interim Asst. Director, Donna Moorman, Chief Planner and Trena Law, Board Secretary

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 17, 2015** docket.

1:00 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 October 20, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 17, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-114(SL)

BUILDING OFFICIAL'S REPORT: Application of Raymond E. Burgett for a special exception to the single family use regulations at 6503 Belmead Drive. This property is more fully described as Lot 12, Block 7/7490, and is zoned R-1ac(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

LOCATION: 6503 Belmead Drive

APPLICANT: Raymond E. Burgett

REQUEST:

A request for a special exception to the single family use development standard regulations is made to construct and maintain a 1-story "casita"/additional "dwelling unit" structure on a site being developed with a 2-story main single family home/dwelling unit structure.

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

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

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION:

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

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 under development. 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 constructing and maintaining a 1-story “casita”/additional “dwelling unit” structure on a site being developed with a 2-story main single family home/dwelling unit structure.
- The site is zoned R-1ac (A) where the Dallas Development Code permits one dwelling unit per lot.
- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”

- The submitted site/plot plan denotes the locations of two building footprints, the larger of the two with approximately 6,600 square feet of floor area denoted as “house” and the smaller of the two with approximately 1,000 square feet of floor area denoted as “casita”. The latter structure or “casiat” has been deemed by Building Inspection, given what is denoted on a submitted floor plans, as an additional dwelling unit. The site plan represents the sizes and locations of the two building footprints relative to the entire lot.
- This request appears to center on the function of what is proposed to be inside the smaller structure on the site – the “casita” structure. The applicant has written in an email that his objective is to add an oven to the casita which will change the definition of sink and cabinet spaces into a kitchen, and that all components of the casita comply with all City codes and can be constructed without the oven under the existing building permit.
- DCAD records indicate “no main or additional improvements” for the property at 6503 Belmead.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve this request, the Board may choose to impose a condition that the applicant comply with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Timeline:

September 24, 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.

October 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

October 14, 2015: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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.”

November 3, 2015: The applicant submitted additional information to staff beyond what was submitted with the original (see Attachment A).

November 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Building Inspection 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, 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: NOVEMBER 17, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Rieves**

I move to grant that the Board of Adjustment grant application **BDA 145-114** 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:

- The applicant must deed restrict the property to prevent the use of the additional dwelling unit as rental accommodations.

SECONDED: **Gaspard**

AYES: 5 – Nolen, French, Rieves, Gibson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-115(SL)

BUILDING OFFICIAL’S REPORT: Application of the City of Dallas, represented by Masterplan, for a variance to the front yard setback regulations at 2702 Love Field Drive (aka: 3001 W. Mockingbird Lane). This property is more fully described as Lot 1E, Block 2/5739 (to be re-platted as Lot 1B, Block 4682), and is zoned IR, which requires a

front yard setback of 15 feet. The applicant proposes to construct and maintain a structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

LOCATION: 2702 Love Field Drive (aka: 3001 W. Mockingbird Lane)

APPLICANT: City of Dallas
Represented by Masterplan

REQUEST:

A request for a variance to the front yard setback regulations of 15' is made to construct and maintain a pedestrian skybridge (and related support column) structure, part/all of which would be located as close as on the site's Denton Drive front property line or 15' into this 15' front yard setback.

(Note that the proposed skybridge on the subject site would connect an existing office structure on the subject site to a skybridge structure to be constructed and maintained on the lot across Denton Drive to the south – a lot which is the subject site of another application made for variances to the front yard setback regulations to Board of Adjustment Panel A on November 17th: BDA 145-116. This front yard setback variance application is made for another skybridge structure that would connect a new office building on the south side of Denton Drive/west side of Wyman Street to an existing office building on the east side of Wyman 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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

STAFF RECOMMENDATION:

Denial

Rationale:

- While staff concluded that granting this request would not be contrary to public interest, the applicant had not substantiated how the physical features of the flat, irregular-shaped, and approximately 76 acre site constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification while simultaneously complying with code provisions including front yard setback regulations.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/research)
North: IR (Industrial/research)
South: IR (Industrial/research)
East: IR (Industrial/research)
West: IR (Industrial/research)

Land Use:

The subject site is developed with a number of office/warehouse structures/uses. The areas to the north and east are developed as Love Field; and the areas to the south and west are developed as mostly office uses.

Zoning/BDA History:

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| 1. BDA 145-116, Property located at 2432 Wyman Street (the lot to the south of the subject site) | On November 17, 2015, the Board of Adjustment Panel A will consider requests for variances to the front yard setback regulations made to construct and maintain a skybridge structure in the front yard setbacks on both sides of Wyman Street. |
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GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a pedestrian skybridge (and related support column) structure, part/all of which would be located as close as on the site's Denton Drive front property line or 15' into this 15' front yard setback.
- The minimum front yard setback on lots zoned IR (Industrial/research) is 15'.
- A scaled site plan and an elevation has been submitted indicating that part of the pedestrian skybridge (and related column) structure is located as close as on the site's Denton Drive front property line or 15' into this 15' front yard setback.
- According to DCAD records, the "main improvement" for property addressed at 2700 Love Field Drive is an "office building" built in 1990 with a total area of 253,695 square feet; an "office building" built in 1997 with a total area of 332,655 square feet; an "office building" built in 2004 with a total area of 242,820 square feet; a "distribution warehouse" built in 2004 with a total area of 6,700 square feet.

- The subject site is flat, irregular in shape, and according to the submitted application is 76.32 acres in area. The site is zoned IR (Industrial/research).
- 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 IR 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 IR zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan and elevation 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 pedestrian skybridge (and related column) located as close as on the site's Denton Drive front property line or 15' into this 15' front yard setback.

Timeline:

September 28, 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.

October 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

October 14, 2015: The Board Administrator emailed the applicant's representative 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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."

November 3, 2015: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

November 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Building Inspection 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, 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: NOVEMBER 17, 2015

APPEARING IN FAVOR: William Cothrum, 900 Jackson Street, Ste. 640, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: French

I move that the Board of Adjustment, in request No. **BDA 145-115**, on application of the City of Dallas, **grant** 15-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.

SECONDED: Rieves

AYES: 5 – Nolen, French, Rieves, Gibson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-116(SL)

BUILDING OFFICIAL’S REPORT: Application of Santos Martinez for variances to the front yard setback regulations at 2432 Wyman Street. This property is more fully described as Lot 1A, Block A/5772, and is zoned IR, which requires a front yard setback of 15 feet. The applicant proposes to construct and maintain a structure and provide 0 foot front yard setbacks, which will require 15 foot variances to the front yard setback regulations.

LOCATION: 2432 Wyman Street

APPLICANT: Santos Martinez

REQUESTS:

Requests for variances to the front yard setback regulations of 15' are made to construct and maintain a pedestrian skybridge (and related support column) structure, part/all of which would be located as close as on the site's Wyman Street front property lines or 15' into these 15' front yard setbacks. The proposed skybridge on the subject site would connect an existing office structure on the east side of Wyman Drive to a proposed office structure to be constructed and maintained on the west side of Wyman Street – property adjacent to the subject site that is currently developed as a surface parking lot.

(Note that a similar request for a variance to the front yard setback regulations to construct and maintain another pedestrian skybridge structure has been made and is scheduled to be heard by Board of Adjustment Panel A on November 17th: BDA 145-115. This front yard setback variance application is made for a skybridge structure that would connect the skybridge structure proposed on the subject site to an existing office building on the lot to the north across Denton Drive).

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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (D) 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;
- (E) 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
- (F) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- While staff concluded that granting this request would not be contrary to public interest, the applicant had not substantiated how the physical features of the flat, irregular-shaped, and approximately 27 acre site constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification while simultaneously complying with code provisions including front yard setback regulations.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/research)
North: IR (Industrial/research)
South: IR (Industrial/research)
East: IR (Industrial/research)
West: IR (Industrial/research)

Land Use:

The subject site is developed with an office structure/use on the east side of Wyman Street and a surface parking lot on the west side of Wyman Street. The areas to the north, east, and south are mostly office uses, and the area to the west appears to be undeveloped.

Zoning/BDA History:

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| 1. BDA 145-115, Property located at 2702 Love Field Drive (the lot to the north of the subject site) | On November 17, 2015, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations made to construct and maintain a skybridge structure in the site's Denton Drive front yard setback. |
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GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a pedestrian skybridge (and related support column) structure, part/all of which would be located as close as on the site's Wyman Street front property lines or 15' into these 15' front yard setbacks. The proposed skybridge on the subject site would connect an existing office structure on the east side of Wyman Drive to a proposed office structure to be constructed and maintained on the west side of Wyman Street – property adjacent to the subject site that is currently developed as a surface parking lot.
- The minimum front yard setback on lots zoned IR (Industrial/research) is 15'.
- A scaled site plan and an elevation has been submitted indicating that part of the pedestrian skybridge (and related column) structure is located as close as on the site's front property lines on the east and west sides of Wyman Street or 15' into these 15' front yard setbacks.
- According to DCAD records, the "main improvement" for property addressed at 2432 Wyman Street is an "office building" built in 2012 with a total area of 383,334 square feet; a "computer data center" built in 2012 with a total area of 93,792 square feet; an "office building" built in 1996 with a total area of 39,500 square feet.
- The subject site is relatively flat, irregular in shape, and according to the submitted application is 26.75 acres in area. The site is zoned IR (Industrial/research).
- The applicant has the burden of proof in establishing the following:
 - That granting the variances 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification.
- The variances 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 IR zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan and elevation as a condition, the structures in the front yard setbacks would be limited to what is shown on this document, which in this case is a pedestrian skybridge (and related column) located as close as on the site's Wyman Street front property lines or 15' into these 15' front yard setbacks.

Timeline:

September 28, 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.

October 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

October 14, 2015: The Board Administrator emailed the applicant's representative 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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."

November 3, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

November 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Building Inspection 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, 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: NOVEMBER 17, 2015

APPEARING IN FAVOR: William Cothrum, 900 Jackson Street, Ste. 640, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: French

I move that the Board of Adjustment, in request No. **BDA 145-116**, on application of the City of Dallas, **grant** 15-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.

SECONDED: Gibson

AYES: 5 – Nolen, French, Rieves, Gibson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-120(SL)

BUILDING OFFICIAL’S REPORT: Application of Donna G. Parker, represented by Mick Mackey, for special exceptions to the side yard setback and visual obstruction regulations at 4200 Northcrest Road. This property is more fully described as Lot 1, Block 4/5538, and is zoned R-16(A), which requires a side yard setback of 10 feet and a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a carport in a side yard and provide a 2 foot setback, which will require an 8 foot special exception to the side yard setback regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 4200 Northcrest Road

APPLICANT: Donna G. Parker, represented by Mick Mackey

REQUESTS:

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

1. A request for a special exception to the side yard setback regulations of 8' is made to modify and maintain a carport, part of which is to remain located in the site's western 10' side yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain an existing 8' high wood fence and add and maintain a 7' 6" high solid sliding gate in the 20' visibility triangle on the north side of the driveway into the site from Midway Road, and an 8' high wood fence and a 6' high open wrought iron fence in the 20' visibility triangle on the south side of the driveway into the site from Midway Road.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

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 (side yard special exception):

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommended denial of these requests.

- The applicant had not substantiated how the location and maintenance of the items in the two 20' drive approach visibility triangles into the site from Midway Road as represented on his submitted site plan (an 8' high wood fence and a 7' 6" high solid sliding gate in the 20' visibility triangle on the north side of the driveway into the site from Midway Road, and an 8' high wood fence and a 6' high open wrought iron fence in the 20' visibility triangle on the south side of the driveway into the site from Midway Road) do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family Residential District 16,000 SF)
North: R-16(A) (Single Family Residential District 16,000 SF)
South: R-16(A) (Single Family Residential District 16,000 SF)
East: R-16(A) (Single Family Residential District 16,000 SF)
West: R-16(A) (Single Family Residential District 16,000 SF)

Land Use:

The subject site is developed with a single family home. The area to the north, east, and south are developed with single family uses, and the area to the west is developed with park and an institutional use (Walnut Hill Park and Walnut Hill School).

Zoning/BDA History:

1. BDA 078-052, Property located at 4200 Northcrest Road (the subject site)

On April 15, 2008, the Board of Adjustment Panel A granted requests for special exceptions to the visual obstruction regulations and imposed the following conditions: Compliance with the submitted site plan is required; and landscape materials located in the 45 foot visibility triangle must not exceed 36 inches in height. The case report stated that the requests were made in conjunction with maintaining landscape materials (a 36" high hedge) in the site's 45' visibility triangle at the intersection of Northcrest Road and Midway Road, and landscape materials (of unspecified height) and a wood fence (of unspecified height) in the site's two, 20' visibility triangles on either side of the driveway into the site from Midway Road.

GENERAL FACTS/STAFF ANALYSIS (side yard special exception):

- This request focuses on modifying and maintaining an approximately 320 square foot carport, part of which is located in the site's western 10' side yard setback on a site developed with a single-family home structure/use.
- The applicant proposes to modify the carport by removing an existing garage door and installing a sliding gate across the driveway.
- A 10' side yard setback is required in the R-16(A) zoning district.
- The submitted site plan indicates that the carport is located 2' from the site's western side property line or 8' into this 10' side yard setback.
- The following information was gleaned from the submitted site plan:
 - The carport is represented to be approximately 23' in length and approximately 14' in width (approximately 320 square feet in total area) of which approximately a third is located in the eastern side yard setback.
- The following information was gleaned from the submitted elevation:
 - The carport is represented to be approximately 11' in height.
 - The carport is noted to have cedar posts.
- The subject site is approximately 172' x 100' (or approximately 17,200 square feet) in area.
- According to DCAD records, the "main improvement" for property addressed at 4200 Northcrest Road is a structure built in 1951 with 2,322 square feet of living/total area; and with the following additional improvements: a 400 square foot attached carport, and a 420 square foot attached garage.
- The Board Administrator conducted a field visit of the area approximately 500 feet north and south of the subject site and noted no other carports located in side yard setbacks.
- As of November 6, 2015, no letters had been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 8' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be modified/maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted site plan and elevations is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- Note that if the Board were to grant this request and impose the submitted site plan and elevations as a condition, it would not address any noncompliance with items on these plans related to visual obstruction regulations.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- These requests focus on maintaining an 8' high wood fence and locating and maintaining a 7' 6" high solid sliding gate in the 20' visibility triangle on the north side of the driveway into the site from Midway Road, and maintaining an 8' high wood

fence and a 6' high open wrought iron fence in the 20' visibility triangle on the south side of the driveway into the site from Midway Road.

- 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 applicant has submitted a site plan and elevation representing an 8' high wood fence and a 7' 6" high solid sliding gate located in the 20' visibility triangle on the north side of the driveway into the site from Midway Road, and an 8' high wood fence and a 6' high open wrought iron fence located in the 20' visibility triangle on the south side of the driveway into the site from Midway Road.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Carport post, gate, tree, and solid wooden fence located within visibility triangle pose a vehicular and pedestrian traffic hazard." (Note that the Project Engineer's comments include items that are not represented in the applicant's submitted site plan and elevations and, as a result, are not part of what the applicant has requested to the Board in this application).
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain an 8' high wood fence and add and maintain 7' 6" high solid sliding gate in the 20' visibility triangle on the north side of the driveway into the site from Midway Road, and to maintain an 8' high wood fence and a 6' high open wrought iron fence in the 20' visibility triangle on the south side of the driveway into the site from Midway Road do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevations would require the previously described items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.
- Note that if the Board were to grant this request and impose the submitted site plan and elevations as a condition, it would not address any noncompliance with structure on these plans related to side yard setback regulations.

Timeline:

September 25, 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.

October 14, 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.”

October 14, 2015: The Board Administrator emailed the applicant’s representative 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

October 27, 2015: The applicant’s representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

November 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Building Inspection 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, and the Assistant City Attorney to the Board.

November 9, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Carport post, gate, tree, and solid wooden fence located within visibility triangle pose a vehicular and pedestrian traffic hazard.”

BOARD OF ADJUSTMENT ACTION: NOVEMBER 17, 2015

APPEARING IN FAVOR: Mick Mackey, P.O. Box 670791, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: **Gaspard**

I move that the Board of Adjustment, in request No. **BDA 145-120**, on application of Donna G. Parker, **grant** an 8-foot special exception to the side yard setback regulations for a carport because our evaluation of the property and testimony shows that the special exception will not have a detrimental impact on surrounding properties. I further

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

- Compliance with the submitted site plan and elevations is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

SECONDED: Nolen

AYES: 5 – Nolen, French, Rieves, Gibson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Gaspard

I move that the Board of Adjustment, in request No. **BDA 145-120**, on application of Donna G. Parker, **grant** the request to maintain items in the visibility triangles as a special exception to the visual obstruction regulations in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. 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 elevations is required.

SECONDED: French

AYES: 4 – Nolen, French, Gibson, Gaspard

NAYS: 1 - Rieves

MOTION PASSED: 4 – 1

MOTION: French

I move to adjourn this meeting.

SECONDED: Gaspard

AYES: 5 – Nolen, French, Rieves, Gibson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

1:23 P. M.: - Board Meeting adjourned for **November 17, 2015**

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.