

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, NOVEMBER 18, 2015**

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

MEMBERS ABSENT FROM BRIEFING: No one

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

MEMBERS ABSENT FROM HEARING: No one

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

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11:08 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 18, 2015 docket.**

1:11 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 October 21, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 18, 2015

MOTION: None

The minutes were approved.

FILE NUMBER: BDA 145-117(SL)

BUILDING OFFICIAL'S REPORT: Application of Brittney Wicks, represented by Ginger Sanchez, for a special exception to the single family use regulations at 710 N. Bishop Avenue. This property is more fully described as Lot 2, Block 5/3327, and is zoned PD 830 (Subdistrict 1), which limits the number of dwelling units to one. The applicant proposes to construct and/or maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

LOCATION: 710 N. Bishop Avenue

APPLICANT: Brittney Wicks
Represented by Ginger Sanchez

REQUEST:

A request for a special exception to the single family use development standard regulations is made to remodel and maintain a 2-story additional "dwelling unit" structure on a site 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: PD 830 (Subdistrict 1) (Planned Development)
North: PD 830 (Subdistrict 1) (Planned Development)
South: PD 830 (Subdistrict 1) (Planned Development)
East: PD 160 (Planned Development)
West: PD 830 (Subdistrict 1) (Planned Development)

Land Use:

The subject site is developed with a 2-story single family home structure in the process of renovation and a vacant 2-story outbuilding. The areas to the north, south, east, and west are developed with a mix of single family and multifamily 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 remodeling and maintaining a 2-story additional “dwelling unit” structure on a site developed with a 2-story main single family home/dwelling unit structure.
- The site is zoned PD 830 (Subdistrict 1) that permits the following residential uses: duplex, handicapped group dwelling unit (with SUP), multifamily, retirement housing, and single family.
- While the applicant proposes two dwelling units on the subject site, these two separate dwelling units cannot be deemed a permitted “duplex” use.
- The Dallas Development Code defines “Duplex” as “two dwelling units located on a lot” with an additional provision that states that “only one main building may be placed on a building site under this use.”
- Building Inspection cannot interpret the structures shown on the submitted site plan as a “duplex” use because the applicant proposes to have two dwelling units on the lot or more than one main building on the building site.

- The site is zoned PD 830 which permits “single family” use where the Dallas Development Code defines it as “one dwelling located on a lot,” and defines 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 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 submitted site plan denotes the locations of two building footprints, the larger of the two with approximately 2,700 square feet of floor area and the smaller of the two with approximately 374 square feet of floor area. The latter structure 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 applicant’s representative has written in an email that the request is only necessary because of the collection of rooms in the accessory structure that defines it as a dwelling unit, and that if one of the rooms were to be removed, the entire structure could remain and be compliant with zoning regulations.
- DCAD records indicate the “main improvement” for the property at 710 N. Bishop Avenue to be a structure built in 1954 with 2,691 square feet of living/total area, and “additional improvements” to be a 704 square foot “detached quarters”.
- 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 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 randomly assigned this case to Board of Adjustment Panel B.

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."

October 21, 2015: The applicant's representative submitted additional information to staff 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 18, 2015

APPEARING IN FAVOR: Ginger Sanchez, 9844 Whistler Drive, Dallas, TX

APPEARING IN OPPOSITION: Johnny Esquivel, 1324 Scott Drive, Dallas, TX

MOTION: **Cannon**

I move that the Board of Adjustment, in request No. **BDA 145-117**, on application of Brittney Wicks, **grant** the request to install and maintain an additional dwelling unit on a site developed with a single family structure and use as a special exception to the single family use regulations requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not be used as rental accommodations, and will not adversely affect neighboring properties. 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 subject property to prevent the use of the additional dwelling unit as rental accommodations.

SECONDED: Bartos

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-113(SL)

BUILDING OFFICIAL’S REPORT: Application of Jordan Spieth, represented by Douglas Wolfe, for a special exception to the fence height regulations at 4436 Brookview Drive. This property is more fully described as Lot 4, Block A/5560, 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/or maintain a 7 foot high fence, which will require a 3 foot special exception to the fence height regulations.

LOCATION: 4436 Brookview Drive

**APPLICANT: Jordan Spieth
Represented by Douglas Wolfe**

November 18, 2015 Public Hearing Notes:

- The Board Administrator circulated an email from the applicant’s representative at the briefing stating that the applicant was requesting that his application be denied without prejudice.

REQUEST:

A request for a special exception to the fence height regulations of 3’ is made to replace an existing 4’ high open wrought iron fence with a 6’ high open wrought iron fence, to replace an approximately 3’ – 4’ high wood gate and 4’ high stone columns with a 6’- 7’ high cedar wood gate and 7’ high stone columns, and to maintain 7’ high stone columns on a site 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.

Zoning:

Site: R-10(A) (Single Family Residential District 10,000 SF)
North: R-10(A) (Single Family Residential District 10,000 SF)
South: R-10(A) (Single Family Residential District 10,000 SF)
East: R-10(A) (Single Family Residential District 10,000 SF)
West: R-10(A) (Single Family Residential District 10,000 SF)

Land Use:

The subject site is developed with a single family home. The area 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 replacing an existing 4' high open wrought iron fence with a 6' high open wrought iron fence, replacing an approximately 3' – 4' high wood gate and 4' high stone columns with a 6'- 7' high cedar wood gate and 7' high stone columns, and maintaining 7' high stone columns on a site 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 site is zoned R-10(A) which requires a 30' front yard setback.
- The submitted site plan/elevation indicates that the maximum height of the fence proposal in the required front yard setback is 7'.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 117' in length parallel to the street.
 - The fence is represented to be located on the front property line; the gate is represented to be located approximately 8' from the front property line. (The distance between the fence/gate and pavement line cannot be determined because the submitted site plan does not denote a pavement line).
- The proposal is located on the site where one lot has direct frontage – a property with no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area along Brookview Drive (approximately 500 feet east and west of the site) and noted no other visible fences above 4 feet high which appeared to be located in a front yard setback.

- As of November 6, 2015, no letters had been submitted in support of the request, and four 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 3' will not adversely affect neighboring property.
- Granting this special exception of 3' 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:

September 9, 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 B.

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 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 18, 2015

APPEARING IN FAVOR: Douglas Wolfe, 9616 Mystic Dunes Dr, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Winslow**

I move that the Board of Adjustment, in request No. **BDA 145-113**, on application of Jordan Spieth, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: **Cannon**

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: **Cannon**

I move to adjourn this meeting.

SECONDED: **Winslow**

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

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

1:30 P.M. Board Meeting adjourned for **November 18, 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.