

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
TUESDAY, MAY 19, 2015**

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

MEMBERS ABSENT FROM BRIEFING: No one

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

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

MEMBERS ABSENT FROM HEARING: No one

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

11:05 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 19, 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 April 21, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: MAY 19, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-056

BUILDING OFFICIAL'S REPORT: Application of Mehrdad Ghani, represented by Saad Chehabi, for a variance to the front yard setback regulations at 10001 Meadowbrook Drive. This property is more fully described as an unplatted 1.034 acre tract, Block 5517, and is zoned R-1ac(A), which requires a front yard setback of 40 feet measured from the front lot line of the building site or the required right-of-way, whichever creates the greater setback. The applicant proposes to construct a single family residential structure and provide an 18 foot front yard setback (provide 19 feet 6 inch setback at foundation and 18 foot setback at roof eave), which will require a 22 foot variance to the front yard setback regulation.

LOCATION: 10001 Meadowbrook Drive

APPLICANT: Mehrdad Ghani
 Represented by Saad Chehabi

REQUEST:

A request for a variance to the front yard setback regulations of 22' is made to construct and maintain a ±10,692-square feet, single-family residential structure, part of which is located 18' (roof eave) and 19' 5" (foundation) from one of the site's two front property lines (Walnut Hill Lane), or 22' into this 40' front yard setback.

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

STAFF RECOMMENDATION:

Approval

Rationale:

- The subject site is unique and different from most lots zoned R-1ac(A) in that, not only is a portion of the site located within a flood plain, the site also has two 40' front yard setbacks, one along Meadowbrook Drive, and one along Walnut Hill Lane. There is a 15' street easement along the Walnut Hill Lane frontage that requires the front yard setback to be measured from this easement and not from the property line, which is the usual case. Therefore, this requirement creates an even more restrictive setback. Furthermore, the site, while rectangular in shape, slopes at a 7% grade towards the creek located at the western property line, so the site would not be considered flat.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is undeveloped. The areas to the north, east, south, and west are developed with single family residential 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 ±10,692- square foot, single-family residential unit, part of which is located 18' from one of the site's two front property lines: Walnut Hill Lane.
- Structures on lots zoned R-1ac(A) are required to provide a minimum front yard setback of 40'.

- The subject site is located at the northwest corner of Walnut Hill Lane and Meadowbrook Drive. Regardless of how the single-family residential unit is proposed to be oriented to front Meadowbrook Drive, the subject site has two front yard setbacks, one along each street. The site has a 40' front yard setback along Meadowbrook Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 40' front yard setback along Walnut Hill Lane, the longer of the two frontages of this corner lot, which is typically regarded as a side yard. But the site's Walnut Hill Lane frontage, though it functions as a side yard, is treated as a front yard setback to maintain the continuity of the front yard setback established by the lots to the west zoned R-1ac(A) that front and are oriented southward towards Walnut Hill Lane.
- A scaled site plan has been submitted indicating that a portion of the proposed single-family residential unit is to be located 18' from the Walnut Hill Lane front property line, or approximately 22' into this 40' front yard setback, to accommodate a roof eave, guest bedroom, and two garages.
- According to DCAD records, there is no "main improvement" or "additional improvement" for property addressed at 10001 Meadowbrook Drive.
- The Current Planner contacted the applicant's representative and then confirmed via e-mail that the square footage of the proposed development will be $\pm 10,692$ -square feet ($\pm 5,948$ SF for the first floor, $\pm 3,354$ SF for the second floor, ± 893 SF for the garage, and ± 497 SF for the covered porch).
- While the subject site is rectangular in shape (336.32'x 131.5'), and, according to the submitted application, 1.034 acres in area, the site is not flat. The site slopes at a 7% grade change downward towards a creek located at the western property line.
- The site is zoned R-1ac(A), where lots are typically 1 acre in area.
- Most lots in R-1ac(A) zoning have one 40' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback; this site has two 40' front yard setbacks—one of which must be measured from a street easement and not the property line, which is the usual case—one 10' side yard setback, and one 10' rear yard setback.
- The 131.50' wide subject site has approximately 81.5' of developable width available once a 40' front yard setback is accounted for on the south and a 10' side yard setback is accounted for on the north. If the lot were more typical to others in the zoning district with only one front yard setback, the 131.50' wide site would have 111.5' of developable width.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-1ac(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan, floor plan, and elevations as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a portion of a structure located as close as 18’ from the site’s Walnut Hill Lane front property line (or 22’ into this 40’ front yard setback).
- Note that granting the applicant’s request for a variance to the front yard setback regulations will not provide any relief to any existing noncompliance that maybe on the site related to fence height.

Timeline:

February 20, 2105: 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 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 21, 2015: The Current Planner shared the following information with the applicant via e-mail:

- 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 April 29th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th 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 5, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: MAY 19, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move to grant that the Board of Adjustment grant application **BDA 145-056** 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 is required.

SECONDED: French

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-058

BUILDING OFFICIAL'S REPORT: Application of Karl A. Crawley for a special exception to the fence height regulations at 4715 W. Northwest Highway. This property is more fully described as Lot 11, Block 5558, 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 an 11 foot 4 inch high fence in a required front yard, which will require a 7 foot 4 inch special exception to the fence regulation.

LOCATION: 4715 W. Northwest Highway

APPLICANT: Karl A. Crawley, Masterplan Consultants

REQUEST:

The following request for a special exception has been made on a site that is developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 7' 4" is made to construct a 10' high cedar wood board-on-board fence with cap rails (approximately 215' in length generally fronting along the northern line of West Northwest Highway), and a 10' high stucco fence (approximately 121' in length generally fronting along the northern line of West Northwest Highway). Inside the stucco portion of the fence is a 10' high, 24' wide wrought iron entry gate and several 11' 4" high stucco

columns with cast stone caps. The fence is parallel to the street in the site's 40' front yard setback along West Northwest Highway.

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 (FENCE HEIGHT):

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 Residential District 1 Acre)
- North: R-1ac(A) (Single Family Residential District 1 Acre)
- South: R-1ac(A) (Single Family Residential District 1 Acre)
- East: R-1ac(A) (Single Family Residential District 1 Acre)
- West: R-1ac(A) (Single Family Residential District 1 Acre) and R-10(A) (Single Family Residential District 10,000 Square Feet)

Land Use:

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

Zoning/BDA History:

1. BDA 090-081, Property at 9054 Briarwood Lane (two lots southeast of the subject site) On August 17, 2010, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 5' 6", subject to the submitted site plan and revised elevation. The case report stated that the request was made to maintain 9' 6" high existing brick columns, and to replace an existing open wrought iron fence with (according to the applicant) a slightly higher 8' 3" high board-on-board cedar fence/wall in one of the site's two 40' front yard setbacks, the setback along Northwest Highway.

2. BDA 034-162, Property at 4618 Shadywood Lane (south of the subject site)

On May 18, 2004, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 6', subject to the submitted site plan and elevation. The case report stated that the request was made to construct a 7.5'-high solid wooden fence with 8'-high wooden columns and an 8'-high wooden gate with 10'-high entry columns in the Northwest Highway front yard setback.

GENERAL FACTS/STAFF ANALYSIS (FENCE HEIGHT):

- This request focuses on constructing a 10' high cedar board-on-board fence with cap rails and a 10' high stucco fence, sections of which contain 11' 4" high stucco columns and a 10' high, 24' wide wrought iron gate, parallel to West Northwest Highway, in the 40' required front yard on a site developed with a single family home/use.
- 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.
- An R-1ac(A) Single Family Residential District requires the minimum front yard setback to be 40'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 336' in length parallel to West Northwest Highway. The cedar wood fence is approximately 215' in length, and the stucco fence is approximately 121' in length.
 - The cedar board-on-board fence will extend approximately 28' in length into the 40' required front yard, while the stucco fence, stucco columns, and wrought iron entry gate will extend generally 28' into the 40' required front yard.
 - The proposal is represented as being located approximately between 25'-46' from the pavement line.
 - The majority of the fence is represented as being located approximately 17' from the property line towards the western border of the property, while, from the eastern border of the property line, the fence is represented as being located approximately 36' from the property line.
- The Current Planner conducted a field visit of the site and surrounding area and noted two other visible fences above 4 feet in height which appeared to be located in a front yard setback. Both fences, located at 4618 Shadywood Lane and 9054 Briarwood, have recorded BDA history (BDA 034-162 and BDA 090-081, respectively).
- One home fronts the proposal.
- As of May 11th, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 7' 4" will not adversely affect neighboring property.

- Granting this special exception of 7' 4" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 7' 4" in height in the front yard setback to be maintained in the location and of the heights and materials shown on these documents.
- Approval of this special exception to the fence height regulations does not provide any relief to any floodway easement requirements.

Timeline:

March 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.

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

April 21, 2015: The Current Planner shared the following information with the applicant via e-mail:

- 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 April 29th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th 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 5, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

May 6, 2015: The applicant, via an e-mail to the Building Inspection Senior Plans Examiner/Development Code Specialist, revised his application to request a 7 foot 4 inch special exception to the fence height regulations to account for the cast stone caps on the stucco columns.

BOARD OF ADJUSTMENT ACTION: MAY 19, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move to grant that the Board of Adjustment grant application **BDA 145-058** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: French

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-061

BUILDING OFFICIAL’S REPORT: Application of Jay Dossal of Lopez Tortillas for a special exception to the landscape regulations at 9727 Brockbank Drive. This property is more fully described as Lot 7A, Block2/6451, and is zoned LI, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 9727 Brockbank Drive

APPLICANT: Jay Dossal of Lopez Tortillas

REQUEST:

A request for a special exception to the landscape regulations is made to maintain an addition to a commercial structure/use (Lopez Foods/Tortillas), and not fully meet the landscape regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

The board may grant a special exception to the landscape regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and

(3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the submitted revised alternate landscape because in his opinion the exception will not adversely affect neighboring property, and strict compliance with the requirements of Article X would unreasonably burden the use of the property.

BACKGROUND INFORMATION:

Zoning:

Site: LI (Light Industrial)
North: LI (Light Industrial)
South: LI (Light Industrial)
East: CS (Commercial Service)
West: LI (Light Industrial)

Land Use:

The site is currently developed with a commercial use (Lopez Foods/Tortillas). The areas to the north, south, east, and west appear to be developed with commercial uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on maintaining an addition to a commercial structure/use (Lopez Foods/Tortillas), and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the revised alternate

landscape plan is deficient in street, parking lot, and site trees, and in design standard requirements.

- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B). The memo states how this request is triggered by a new building addition with a floor area increase on the lot greater than 35 percent.
- The Chief Arborist's memo lists the following factors for consideration:
 1. The property has existed and operated for many years prior to the building expansion that prompted the landscape regulations. The site is essentially fully paved and will require removal of concrete for a narrow bed along the fence line for new planting.
 2. The street perimeter is restricted with overhead utility lines that do not favor planting large canopy trees in that proximity. The narrow spacing for providing trees on the street frontage is not favorable for large canopy trees.
 3. In order to work within the narrow space provided, the applicant has proposed a 3' tall wood screening fence alongside the metal picket fence which will meet minimum standards for screening of off-street parking.
- The City of Dallas Chief Arborist recommends approval of the submitted revised alternate landscape because in his opinion the exception will not adversely affect neighboring property, and strict compliance with the requirements of Article X would unreasonably burden the use of the property.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted revised alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the street, parking lot, and site tree and design standard requirements of Article X: The Landscape Regulations.

Timeline:

March 20, 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 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 16, 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 April 29th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th 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 5, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

May 8, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

May 8, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment B).

BOARD OF ADJUSTMENT ACTION: MAY 19, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Leone**

I move to grant that the Board of Adjustment grant application **BDA 145-061** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised alternate landscape plan is required.

SECONDED: **French**

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-062

BUILDING OFFICIAL'S REPORT: Application of Susan Hirsch, represented by Michael Brooks, for special exceptions to the fence height and visual obstruction regulations at 4617 Meadowood Road. This property is more fully described as Lot 15, Block 5543, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 12 foot 3 inch high fence, which will require an 8 foot 3 inch special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 4617 Meadowood Road

APPLICANT: Susan Hirsch
Represented by Michael Brooks

REQUESTS:

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

1. A request for a special exception to the fence height regulations of 8' 3" is made to construct and maintain two fenced entryways – each comprised of 6' high open cast iron picket fence that flanks on both sides of a 7' – 9' high open cast iron gate with 9' 3" high cast stone columns each topped with 3' high decorative lamps.
2. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain unspecified landscape materials in the two 20' visibility triangles on both sides of the two driveways into the site from Meadowood 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.

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 (fence height):

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.

STAFF RECOMMENDATION (visual obstruction):

Denial of the requests

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of these requests commenting that the proposed landscape species are not specified on the submitted plans, and that existing site conditions “allows for landscaping alternative that does not violate visibility triangle.”
- The applicant had not substantiated how the location and maintenance of unspecified landscape materials in the two 20’ visibility triangles on both sides of the two driveways into the site from Meadowood Road do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 91-002, Property at 4622 Meadowood Road (the lot immediately south of the subject site)

On March 12, 1991, the Board of Adjustment granted a request for a special exception to the fence height regulations to maintain a 5’ high fence. The board imposed the following condition: subject to the revised fence design agreed upon by the applicant and area property owners. The case report stated that the request was made to construct two 6; 3” high brick walls on each side of the 5’ 7” sliding steel gates, and that the applicant proposed to attach a vinyl coated 5’ high chain link fence to the existing 5’ high chain link fence. /maintain a 6’ 9” high wall with 6’ 9” high columns, and a 12’ 8” high open metal entry gate with 14’ 4” high entry columns on property developed with a single family home.

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| <p>2 . BDA 967-160, Property at 4637 Meadowood Road (the lot to the east of the subject site)</p> | <p>On March 26, 1996, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations of 4', needed in conjunction with constructing and maintaining an open 6' high fence with 6.5' high columns and 8' high entry gate/columns.</p> |
| <p>3 . BDA 101-077, Property at 4645 Meadowood Road (two lots to the east of the subject site)</p> | <p>On September 21, 2011, the Board of Adjustment Panel A granted a request for granted a request to construct and maintain an eleven-foot-high fence. The Board imposed the following condition to this request: compliance with the submitted site plan/elevation is required. The case report stated that this request was made to construct and maintain a "5' 6"_±" - "6' 0"_±" high open ornamental iron fence with 7' high cast stone columns and two 11' high open metal gates/cast stone entry columns in the site's 40' front yard setback on a lot developed with a single family home.</p> |

GENERAL FACTS/STAFF ANALYSIS (fence height):

- This request focuses on constructing and maintaining two fenced entryways – each comprised of 6' high open cast iron picket fence that flanks on both sides of a 7' – 9' high open cast iron gate with 9' 3" high cast stone columns each topped with 3' high decorative lamps in the front yard setback on a site developed with a single family home/use. (No fence is noted to be located on the site between or on either side of the fenced entryways).
- 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 that reaches a maximum height of 12' 3".
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal includes two fenced entryways that are represented as being curved to and recessed from the street.
 - The two entryways are recessed from the street and are no closer than approximately 14' from the property line or 24' from the pavement line.
 - The four curved fences that lie on both sides of the two entry gates range in lengths from approximately 20' – 40'.
- The site plan denotes "landscaping" and "existing landscaping" adjacent to the fence some of which appears to be located in the public right-of-way.
- The Board Administrator conducted a field visit of the site and surrounding area and noted several other visible fences above 4 feet high which appeared to be located in a front yard setback. The fences noted in the immediate area are detailed in the "Zoning/BDA History" section of this case report.

- Three homes front the proposal – one of which is a home that has a fence higher than 4’ but in a location where it appears to be located outside of the front yard setback, one with a fence with an approximately 5’ high fence that appears to reflect a fence height special exception granted by the Board on this property in 1991 (BDA 91-002), and the remaining with a fence with an approximately 6’ high fence that appears to reflect a fence height special exception granted by the Board on this property in 1996 (BDA 967-160).
- As of May 11th, no letters had 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 8’ 3” will not adversely affect neighboring property.
- Granting this special exception of 8’ 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 maintained in the location and of the heights and materials as shown on this document.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- These requests focus on locating and maintaining unspecified landscape materials in the two 20’ visibility triangles on both sides of the two driveways into the site from Meadowood 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/elevation denoting “landscaping” or “new landscaping” to be located and maintained in the 20’ visibility triangles at the two drive approaches into the site from Meadowood Road. The applicant’s representative has informed the Board Administrator that these unspecified landscape materials will be of heights between 2 ½’ – 8 feet in height.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Proposed landscape species not specified on plans. Existing site conditions allows for landscaping alternative that does not violate visibility triangle.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain portions of unspecified landscape materials on both sides of the two driveways into the site from Meadowood Road does not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan/elevation would require the items to be limited to and maintained in the locations, height and materials as shown on this document.

Timeline:

February 16, 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 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 16, 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 April 29th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th 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 5, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

May 7, 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: “Proposed landscape species not specified on plans. Existing site conditions allows for landscaping alternative that does not violate visibility triangle.”

BOARD OF ADJUSTMENT ACTION: MAY 19, 2015

APPEARING IN FAVOR: Michael Brooks, 928 South Peak, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: **Sibley**

I move that the Board of Adjustment, in request **No. BDA 145-062**, on application of Susan Hirsch, **grant** the request to construct and maintain a 12-foot 3-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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Leone

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Sibley

I move that the Board of Adjustment, in request No. **BDA 145-062**, on application of Susan Hirsch, **deny** the special exception requested for Gate 1 and Gate 2 **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: Nolen

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Nolen

I move to adjourn this meeting.

SECONDED: Leone

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

1:20 P. M.: - Board Meeting adjourned for **May 19, 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.