

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, May 22, 2018**

MEMBERS PRESENT AT BRIEFING: John Jones, regular member, Gary Sibley, alternate member, Lorlee Bartos alternate member, Nicholas Brooks

MEMBERS ABSENT FROM BRIEFING: Peter Shultz, Chair, Elizabeth Nelson, regular member, Jay Narey, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Chief Planner/Board Administrator, Kanesia Williams, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist, David Nevarez, Engineering, Shombray Irby, Acting Board Secretary, Elaine Hill, Board Secretary, and Neva Dean, Assistant Director, Carolina Yumet, Senior Planner

MEMBERS PRESENT AT HEARING: John Jones, regular member, Gary Sibley, alternate member, Lorlee Bartos, alternate member, Nicholas Brooks, alternate member

MEMBERS ABSENT FROM HEARING: Peter Schulte, Chair, Elizabeth Nelson, regular member, Jay Narey, regular member

STAFF PRESENT AT HEARING: Steve Long, Chief Planner/Board Administrator, Kanesia Williams, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist, David Nevarez, Engineering, Shombray Irby, Acting Board Secretary, Elaine Hill, Board Secretary, and Neva Dean, Assistant Director, Carolina Yumet, Senior Planner

11:08 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 22, 2018** 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

Approval of the Board of Adjustment Panel A, April 17, 2018 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: MAY 22, 2018

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA178-049(OA)

BUILDING OFFICIAL'S REPORT: Application of Robert Muhammad, represented by Erika Muhammad, for a special exception to the fence standards regulations at 135 S. Jim Miller Road. This property is more fully described as Lot 2, Block 6263, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 6-foot-high fence in a required front yard, which will require a 2-foot special exception to the fence standards regulations.

LOCATION: 135 S. Jim Miller Road

APPLICANT: Robert Muhammad
Represented by Erika Muhammad

REQUEST:

A request for a special exception to the fence standards regulations related to fence height is made to maintain a 6' high open wrought iron fence in the site's 25' front yard setback on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602(a) (11) of the Dallas Development Code states that the board may grant a special exception to the fence standards when, in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

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

East: MF-1(A) (Multifamily district 1)
West: R-7.5(A) (Single family district 7,500 square-feet)

Land Use:

The subject site is developed with a single-family use. The area to the east is developed with multifamily structures; the areas to the north, 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:

- The request for a special exception to the fence standards regulations related to height focuses on maintaining a 6' high open wrought iron fence in the site's front yard setback along the property line on a site developed with a single-family home.
- Section 51A-4.602(a) (2) of 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 property is located in an R-7.5(A) zoning district which requires a minimum front yard setback of 25 feet.
- The applicant has submitted a site plan and elevation of the proposed fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 6'.
- The submitted site plan denotes the following:
 - The proposal in the front yard setback is represented as being approximately 180' in length parallel to this street and approximately 25' in length perpendicular to the street on the north and south side of the site in the front yard setback; and
 - The proposal is represented as being located on the front property line, and approximately 14' from the pavement line.
- A multifamily use fronts the existing fence with similar fences of similar height to that which is on the subject site.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area from Carter Road to Gayglen Drive and noted several fences. Staff noted several solid wood fences that appeared to be above 6' in height located along Jim Miller Road. However, these fences are located in what appears to be the rear yards, therefore most likely permitted by right.
- As of May 9, 2018, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to fence height of 6' will not adversely affect neighboring property. Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevation would require the

proposal to be maintained in the location and of the heights and materials as shown on these documents.

Timeline:

February 21, 2018: 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 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 13, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th 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 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Jones

BDA 178-049 – Application of Robert Muhammad represented by Erika Muhammad to construct and maintain a six-foot-high fence as a special exception to the fence height requirements for fences contained in the Dallas Development Code, as amended, is **granted**, subject to the following condition:

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

SECONDED: Bartos

AYES: 4 - Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-057(OA)

BUILDING OFFICIAL'S REPORT: Application of Jeremy Carpenter for a special exception to the visual obstruction regulations at 1003 Clermont Street. This property is more fully described as Lot 24 & 25, Block 24/2225, and is zoned CD-6, which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to locate and/or maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 1003 Clermont Street

APPLICANT: Jeremy Carpenter

REQUESTS:

The following requests for special exceptions to the visual obstruction regulations have been made on a site developed with a single-family home structure:

1. To transition/modify an existing 6' high open wrought iron fence to match an existing 6' high solid wood fence located in the 20' visibility triangle on the north side of the driveway into the site from Sevilla Street; and
2. To maintain an existing 6' high solid wood fence located in the 20' visibility triangle on the south side of the driveway into the site from Sevilla Street.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d) (3) of the Dallas Development Code states that 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.

BACKGROUND INFORMATION:

Zoning:

Site: CD 6 (Conservation District)

North: CD 6 (Conservation District)

South: CD 6 (Conservation District)

East: CD 6 (Conservation District)

West: CD 6 (Conservation District)

Land Use:

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

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:

- These requests for special exceptions to the visual obstruction regulations focus on a site developed with a single-family home structure:
 1. transitioning/modifying an existing 6' high open wrought iron fence to match an existing 6' high solid wood fence located in the 20' visibility triangle on the north side of the driveway into the site from Sevilla Street; and
 2. maintaining an existing 6' high solid wood fence located in the 20' visibility triangle on the south side of the driveway into the site from Sevilla Street.
- Section 51A-4.602(d) of 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 property is located in CD 6 which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and site plan and elevation have been submitted indicating portions of a 6' high solid wood fence in the two 20' visibility triangles on both sides of the driveway into the site from Sevilla Street.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to transition/modify an existing 6' high open wrought iron fence to match an existing 6' high solid wood fence located in the 20' visibility triangles on the north side of the driveway into the site from Sevilla Street; and to maintain an existing 6' high solid wood fence located in the 20' visibility triangles on the south side of the driveway into the site from Sevilla Street, do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be maintained or modified/maintained in the 20' drive approach visibility triangles into the site from

Sevilla Street to that what is shown on these documents – a 6’ high solid wood fence.

Timeline:

March 19, 2018: 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 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 13, 2017: The Sustainable Development and Construction Department Senior Planner emailed the applicant/owner the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards 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.

May 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

May 9, 2018: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Jones

BDA 178-057 – Application of Jeremy Carpenter to maintain items in the visibility triangles at the driveway approaches as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, is **granted**, subject to the following condition:

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

SECONDED: Bartos

AYES: 4 - Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-047(OA)

BUILDING OFFICIAL’S REPORT: Application of Tricolor Auto Group, represented by Laura Castillo, for special exceptions to the sign regulations at 12000 E. Northwest Highway. This property is more fully described as Tract 12, Block 3/6583 and is zoned MC-3, which limits the number of detached signs on a premise to one per street frontage other than expressways, and limits the setback of a detached sign on a premise. The applicant proposes to construct and/or maintain one additional detached premise sign, which will require a special exception to the sign regulations, and to locate and maintain a detached premise sign in a required setback, which will require up to a 10% setback special exception to the sign regulations.

LOCATION: 12000 E. Northwest Highway

APPLICANT: Tricolor Auto Group
Represented by Laura Castillo and Maxwell Fisher

REQUEST:

The following requests have been made on a site that is being developed with a “vehicle display, sales, or service” use:

1. A request for special exception to the sign regulations related to the setbacks is made to construct and maintain a 35’ high detached premise sign to be located 50’ away or 10 percent into the required 55’ setback; and
2. A request for special exception to the sign regulations is made to construct and maintain an additional detached premise sign.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR A DETACHED PREMISE SIGN OF UP TO TEN PERCENT OF THE SETBACK AREA:

Section 51A-7.703(d)(1) of the Dallas Development Code states that the Board of Adjustment may, in specific cases and subject to appropriate conditions, permit for detached premise signs of up to 10 percent of the setback effective area, and height requirements established by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:

Section 51A-7.703(d)(2) of the Dallas Development Code states that the Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on a premise in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

BACKGROUND INFORMATION:

Zoning:

Site: MC-3 (Multiple Commercial)
North: CS (Commercial Service) & CR (Community Retail)
South: MC-3 (Multiple Commercial) & R-7 (Single family district 7,500 square-foot)
East: MC-3 ((Multiple Commercial) & RR (General Office and Regional Retail)
West: RR (General Office and Regional Retail) & & R-7 (Single family district 7,500 square-foot)

Land Use:

The site is currently developed with a “vehicle display, sales, or service” use. The area to the north is developed with retail and a public park; the area to the west and east are developed with a retail; and the area to the south is developed with a vacant lot and single family residential lots.

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 (detached premise sign of up to ten percent of the setback):

- The request for a special exception to the sign regulations related to the setbacks focuses on constructing and maintaining a 35’ high detached premise sign to be located 50’ away or 10 percent into the required 55’ setback on a site developed with a with a “vehicle display, sales, or service” use.
- Section 51A-7.304(c) (1) (B) (2) of the Dallas Development Code requires a 35’ high detached premise sign to be located 55’ from the property line.
- A sign elevation denoting the proposed detached non-monument new sign has been submitted

- The submitted site plan and elevation represents a 35' high detached premise sign that is located 50 from the property line. Hence, a request for a special exception in order to locate this 35' high detached premise sign 10 percent into the required 55' setback.
- The applicant has the burden of proof in establishing the following:
 - That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to 35' high detached premise sign to be located 55' from the property line) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- If the Board were to grant this request and impose the submitted site plan and elevation as a condition, the sign on the site would be held to features as shown on these documents, which in this case is to allow a 35' high detached premise sign to be located 50' away or 10 percent into the required 55' setback on a site developed with a with a car and service dealership.

GENERAL FACTS/STAFF ANALYSIS (additional detached sign):

- The request for a special exception to the sign regulations focuses on locating and maintaining an additional sign on a site being developed with a “vehicle display, sales, or service” use.
- Section 51A-7.304(b) (4) of the Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways.
- The submitted site plan indicates the location of two detached non-monument signs, (represented as “proposed new sign” and “existing sign”) on the site’s Northwest Highway frontage, hence this request for a special exception to the sign regulations for an additional detached sign.
- A sign elevation denoting the “proposed new sign” detached non-monument sign has been submitted.
- The applicant has the burden of proof in establishing the following:
 - That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the street frontage) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- If the Board were to approve the request for a special exception to the sign regulations, the board may consider imposing a condition that the applicant comply with the submitted site plan and sign elevation.

Timeline:

February 22, 2018: 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 11, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 13, 2018: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th 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 2, 2018: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

May 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

May 11, 2018: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B). Note that this information was not factored into the staff recommendation since it was submitted after the May 8th staff review team meeting.

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

BOARD OF ADJUSTMENT ACTION: MAY 22, 2018

APPEARING IN FAVOR: Maxwell Fisher, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Mark Gallas, 11844 E. Northwest Hwy, Dallas, TX

MOTION: Jones

I move that the Board of Adjustment in Appeal No. BDA 178-047 hold this matter under advisement until **June 19, 2018**.

SECONDED: BARTOS

AYES: 4

NAYS: 0

MOTION: 4 – 0 (unanimously)

FILE NUMBER: BDA178-053(OA)

BUILDING OFFICIAL’S REPORT: – Application of Elsa L. Cavillo Saucedo for special exceptions to the fence standards and visual obstruction regulations at 7305 Arborcrest Drive. This property is more fully described as Lot 1, Block V/6640, and is zoned R-7.5(A), which prohibits the use of certain materials for a fence and requires a 20-foot visibility triangle at an alley. The applicant proposes to construct and/or maintain a fence of a prohibited material, which will require a special exception to the fence standards regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 7305 Arborcrest Drive

APPLICANT: Elsa L. Cavillo Saucedo

REQUESTS:

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

1. A request for a special exception to the fence standard regulations is made to maintain a fence of a prohibited fence material (corrugated metal) on the property;
2. A request for special exception to the visual obstruction regulations is made to maintain a 6’ high corrugated metal fence in the 20’ visibility triangle at where the alley meets Partridge Drive.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards 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:

Section 51A-4.602(d) (3) of the Dallas Development Code states that 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.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (fence standards):

- The request for a special exception to the fence standards is made to maintain a fence of a prohibited fence material (corrugated metal) on a site developed with a single-family home.
- Section 51A-4.602(a)(9) of the Dallas Development Code states that except as provided in this subsection, the following fence materials are prohibited:
 - Sheet metal;
 - Corrugated metal;
 - Fiberglass panels;
 - Plywood;
 - Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;
 - Barbed wire and razor ribbon (concertina wire) in residential districts other than an A(A) Agricultural District; and
 - Barbed wire razor ribbon (concertina wire) in nonresidential districts unless the barbed wire or razor ribbon (concertina wire) is six feet or more above grade and does not project beyond the property line.
- The applicant has submitted a site plan and elevation of the existing corrugated metal fence located on the property.
- The submitted elevation included a 6' high corrugated metal fence.
- The submitted site plan represents a site that is approximately 8,900 square feet in area where approximately 260 linear feet of prohibited fence material (corrugated metal fence) is located on the property.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area. Staff did not observe any other corrugated metal fences within the area.
- As of May 8, 2018, no letters had been submitted in support of the request, and one letter had been submitted in opposition.

- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to a prohibited fence material (corrugated metal) will not adversely affect neighboring property.
- If the Board were to grant the special exception, and impose the submitted site plan and elevation as a condition, the location of corrugated metal fence would be limited to what is shown on these documents.

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

- The requests for special exceptions to the visual obstruction regulations focus on maintaining a 6' high corrugated metal fence in the 20' visibility triangle at where the alley meets Partridge Drive.
- 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 property is located in R-7.5(A) zoning district which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of a 6' corrugated metal fence in the 20' visibility triangle at where the alley meets Partridge Drive.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to maintain a 6' high corrugated metal fence in the 20' visibility triangle at where the alley meets Partridge Drive does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be maintained in the 20' visibility triangle where the alley meets Partridge Drive, to that what is shown on these documents – a 6' high corrugated metal fence.

Timeline:

- March 13, 2018: 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 10, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

- April 13, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standards 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.
- May 4, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- May 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: The Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- May 9, 2018: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.

BOARD OF ADJUSTMENT ACTION: MAY 22, 2018

APPEARING IN FAVOR: Elsa Calvillo, 7305 Arborcrest Dr., Dallas, TX

APPEARING IN OPPOSITION: Joe W. Armstrong, 7625 Greenspan Ave., Dallas, TX

MOTION #1: Bartos

I move that the Board of Adjustment in Appeal No. BDA 178-053 hold this matter under advisement until June 19, 2018.

SECONDED: Brooks

AYES: 1 – Bartos

NAYS: 3 – Sibley, Jones, Brooks

VOTE FAILED

MOTION #2: Jones

I move that the Board of Adjustment, in Appeal No. BDA 178-053, on application of Elsa L. Cavillo Saucedo, **deny** the special exception requested by this applicant to

construct and/or maintain a fence of a prohibited material, corrugated metal, **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: Sibley

AYES: 4 – Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION #3: Bartos

I move that the Board of Adjustment, in Appeal No. BDA 178-053, on application of Elsa L. Cavillo Saucedo, **grant** the request to maintain items in the visibility triangle at the alley approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

- Compliance with the submitted site plan is required.

SECONDED: Jones

AYES: 4 – Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-062(SL)

BUILDING OFFICIAL’S REPORT: Application of Seth A. Smith for a special exception to the visual obstruction regulations at 1401 Beaumont Street. This property is more fully described as Tract 1.1, Block H/912, is zoned PD 317 Sub district 2, which requires a 45-foot visibility triangle at street intersections. The applicant proposes to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 1401 Beaumont Street

APPLICANT: Seth A. Smith

REQUEST:

A request for a special exception to the visual obstruction regulations is made to locate and maintain a 6’ – 7’ high open chain link fence in the 45’ visibility triangle at the

intersection of Gould Street and Beaumont Street on a site that is currently undeveloped.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that 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.

BACKGROUND INFORMATION:

Zoning:

Site: PD 317 (Planned Development)
North: PD 317 (Planned Development)
South: PD 317 (Planned Development)
East: PD 317 (Planned Development)
West: PD 317 (Planned Development)

Land Use:

The subject site is undeveloped. The areas to the north is developed with single family use; the areas to the east and west are undeveloped; and the area to the south is developed with a restaurant/bar use.

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:

- The request for special exception to the visual obstruction regulations focuses on locating and maintaining a 6' – 7' high open chain link fence in the 45' visibility triangle at the intersection of Gould Street and Beaumont Street on a site that is currently undeveloped.
- Section 51A-4.602(d) of 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 property is located in PD 317 which requires a 45-foot visibility triangle at the intersection of two streets.
- A site plan and an elevation have been submitted indicating a 6' – 7' high open chain link fence located in the 45' visibility triangle at the intersection of Gould Street and Beaumont Street.
- The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Recommends denial" with the following comments: "City of Dallas should aggressively control visibility at intersecting streets. Visibility triangles at intersecting streets within the urban core are a critical consideration in the Complete Streets manual as adopted by Council in 2016. When possible, no obstruction should obscure the view of motorists from approaching pedestrians, bicyclists or any motor vehicles".
- The applicant has the burden of proof in establishing how granting this request to locate and maintain a 6' – 7' high open chain link fence in the 45' visibility triangle at the intersection of Gould Street and Beaumont Street does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the item to be located and maintained in the 45' intersection visibility triangle to that what is shown on these documents – a 6' – 7' high open chain link fence.

Timeline:

- March 23, 2018: 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 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 10, 2018: The Board Administrator/Chief Planner emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th 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 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: The Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project

Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

May 9, 2018: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Recommends denial" with the following comments: "City of Dallas should aggressively control visibility at intersecting streets. Visibility triangles at intersecting streets within the urban core are a critical consideration in the Complete Streets manual as adopted by Council in 2016. When possible, no obstruction should obscure the view of motorists from approaching pedestrians, bicyclists or any motor vehicles".

BOARD OF ADJUSTMENT ACTION: MAY 22, 2018

APPEARING IN FAVOR: Seth Smith, 6214 Richmond Ave., Dallas, TX

APPEARING IN OPPOSITION: No One

MOTION: **Sibley**

I move that the Board of Adjustment, in Appeal No. BDA 178-062, on application of Seth A. Smith, **deny** the special exception requested by this applicant to locate and maintain items in the visibility triangle at the street intersection **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: **Jones**

AYES: 4 – Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION: **Bartos**

I move to adjourn this meeting.

SECONDED: **Jones**

AYES: 4 – Sibley, Jones, Bartos, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

1:43 P. M.: Board Meeting adjourned for **MAY 22, 2018.**

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.