

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL A
TUESDAY, APRIL 17, 2007

Briefing: 11:00 A.M.
Public Hearing: 1:00 P.M.

5/E/S
COUNCIL CHAMBERS

Purpose: To take action on the attached agenda, which contains the following:

1. Zoning Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

***All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

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04-17-2007

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, APRIL 17, 2007
AGENDA

BRIEFING	5/E/S	11:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

Donnie Moore, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the Tuesday, March 20, 2007 Board of Adjustment Public Hearing Minutes	M1
BDA 067-015	4818 N. Lindhurst Drive REQUEST: Application of Lacie Crow to waive the two year time limitation on a special exception to the fence height regulations that was granted with conditions on January 16, 2007	M2

UNCONTESTED CASE

BDA 067-063	4140 Lemmon Avenue, Suite 176 REQUEST: Application of Rosebriar Douglas Court, L.P., represented by William Watson, for special exceptions to the sign regulations	1
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REGULAR CASES

BDA 067-050	13101 Preston Road REQUEST: Application of Shafer Property Company, represented by Masterplan, for a special exception to the parking regulations	2
BDA 067-059	10636 Royal Chapel Drive REQUEST: Application of Robert L. Chisolm for a special exception to the visibility obstruction regulations	3

BDA 067-061

7124 Greenville Avenue

4

REQUEST: Application of Goody Goody Liquor, Inc.,
represented by James Schnurr, for special exceptions
to the sign and visibility obstruction regulations

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A March 20, 2007 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 067-015

REQUEST: To waive the two year limitation on a request for a special exception to the fence height regulations that was granted with conditions by Board of Adjustment Panel A on January 16, 2007

LOCATION: 4818 N. Lindhurst Drive

APPLICANT: Lacie Crow

STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION:

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to board action:
 - Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
 - If the board renders a final decision of denial without prejudice, the two year limitation is waived.
 - The applicant may apply for a waiver of the two year limitation in the following manner:
 - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
 - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.
- On April 2, 2007, the applicant submitted a letter (see Attachment A) requesting a waiver of the two year time limitation on a special exception to the fence height regulations that was granted (subject to compliance with the submitted revised site plan and elevation) by Board of Adjustment Panel A on January 16, 2007. The case report stated that the special exception request was made in conjunction with constructing a 6' high open decorative iron fence with 6.5' high stone columns, an 8' high arched open gate with 7' high stone columns flanked by two, approximately 10' long, 6' high solid stone wing walls in the site's N. Lindhurst Drive front yard setback; and a 6' high decorative iron fence with 6.5' high stone columns, 6' high open iron

vehicular gates, and a 7' high stone wall with 8' high columns in the site's Lennox Lane front yard setback.

- On April 3, 2007, the Board Administrator responded back to the applicant's request in an email. The email provided additional details about her request (see Attachment B).

FILE NUMBER: BDA 067-063

BUILDING OFFICIAL'S REPORT:

Application of Rosebriar Douglas Court, L.P., represented by William Watson, for special exceptions to the sign regulations at 4140 Lemmon Avenue, Suite 176. This property is more fully described as Lot 2A in City Block 33/1052 and is zoned PD-193 (GR) which states that with regard to attached signs, on any building façade, there may be a maximum of eight words which contain any character of a height equal to or exceeding four inches and pertain to any premise or any non-residency occupancy. The applicant proposes to construct attached premise signs on nonresidential building facades with ten words which would require special exceptions.

LOCATION: 4140 Lemmon Avenue, Suite 176

APPLICANT: Rosebriar Douglas Court, L.P.,
Represented by William Watson

REQUESTS:

- Special exceptions to the sign regulations are requested to locate and maintain 2 additional large letter words on an existing structure's Lemmon Avenue and Knight Street facades. More specifically, the requests are to allow 10 words on facade signs that would advertise a proposed restaurant use (Buffalo Wild Wings) planning to locate in one of the vacant suites within the existing structure on the subject site.

STAFF RECOMMENDATION:

Approval, subject to compliance with the submitted sign/building elevation

Rationale:

- The applicant has substantiated how strict compliance with the requirement of the sign regulations (whereby if the applicant were to comply with the sign regulations, the business intending to locate in a portion of the structure on the site would be limited to erecting signs with 8 words per facade) would result in substantial financial hardship or inequity to the applicant. In this case, the need for an additional 2 "words" per sign on the structure's Lemmon Avenue and Knight Street façades is warranted in order to preserve the proposed business's national brand identity that includes words and the company logo, whereby, according to the applicant, not allowing the buffalo logo and the "&" on the signs would force them to remove their entire logo or forfeit their trademark protection.
- Two of the 10 words proposed to be located on the structure's Lemmon Avenue and Knight Street facades are "words" that include the company's logo and an "&" symbol.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS TO AUTHORIZE UP TO TWO ADDITIONAL LARGE LETTER WORDS ON AN ATTACHED SIGN:

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize up to two additional large letter words on an attached sign in excess of the number specified in the code 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.

GENERAL FACTS:

- The Dallas Development Code states the following provision for attached signs in business area:
 - On any building façade, there may be a maximum of 8 words which contain any character of a height equal to or exceeding 4 inches and pertain to any premise or any non-residential occupancy. (Words consisting of characters less than 4 inches high may be use without limit).

The applicant has submitted an elevation of the portions of the structure on the subject site where the proposed restaurant is to be located that conveys a “south elevation” (the approximately 100’ long Lemmon Avenue façade/frontage of the proposed restaurant) and a “side elevation” (the approximately 82’ long Knight Street façade/frontage of the proposed restaurant) both of which contain the following 10 words: the company logo, “Buffalo”, “Wild”, “Wings”, “Grill”, “&”, “Bar”, “Buffalo”, “Wild”, and “Wings.”

(The Dallas Development Code defines “word” as any word in any language found in any standard unabridged dictionary or dictionary of slang; any proper noun or any initial or series of initials; any separate character, symbol, or abbreviation, such as “&”, “\$”, “%”, and “Inc.”; any telephone number, street number, or commonly used, combination of numerals and / or symbols such as “\$5.00”, or “50%”; any symbol or logo that is a registered trademark, but which itself contains no word or character).

- On March 30, 2007, the applicant’s representative submitted additional information to staff regarding the request (see Attachment A). This information included a document that provided additional details about the request.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (GR) (Planned Development, General Retail)
North: PD No. 193 (MF-2) (Planned Development, Multifamily)
South: PD No. 193 (GR) (Planned Development, General Retail)
East: PD No. 193 (GR) (Planned Development, General Retail)
West: PD No. 193 (GR) (Planned Development, General Retail)

Land Use:

The site is currently developed with a structure with a series of suites housing restaurant, retail, and office uses (Advanced Spine Sports Medicine, Aqua, Monarch Dental, Gloria's). The structure on the site has vacant suites, one of which is proposed to be leased by a restaurant (Buffalo Wild Wings). The area to the north is developed with residential uses; and the areas to the east, south, and west are developed with retail 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.

Timeline:

- Feb. 23, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 22, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 26, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 30th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
 - the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 30, 2007 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

April 2, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The requests involve two proposed attached signs with a total of 10 words, each to be located on two of an existing structure's frontages/facades: Lemmon Avenue and Knight Street.
- The sign regulations limit the number of "words" (of a certain size) per façade to 8 words.
Sign/building elevations for the portion of the structure on the site in which a restaurant intends to lease have been submitted indicating the following "words" to be placed/located on each façade: the company logo, "Buffalo", "Wild", "Wings", "Grill", "&", "Bar", "Buffalo", "Wild", and "Wings."
- Two of the 10 "words" proposed to be located on the structure's Lemmon Avenue and Knight Street facades include the company's logo and an "&" symbol.
- The applicant's representative has stated that the 10 "words" proposed for the structure's 2 frontages/facades represent a national brand identity that includes words and the company logo, whereby not allowing the buffalo logo and the "&" on the signs would force them to remove their entire logo or forfeit their trademark protection.
- 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 structure on the site would be limited to having signs with a maximum of 8 words per facade) 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.
- Granting this special exception (with conditions imposed that the applicant complies with the submitted sign/building elevation) would allow a portion of the structure on the subject site to have two signs with 10 words each on its Lemmon Avenue and Knight Street facades.

FILE NUMBER: BDA 067-050

BUILDING OFFICIAL'S REPORT:

Application of Shafer Property Company, represented by Masterplan, for a special exception to the parking regulations at 13101 Preston Road. This property is more fully described as Lot 1 in City Block A/7409 and is zoned LO-2 which requires parking to be provided. The applicant proposes to construct a nonresidential building and provide 189 parking spaces which would require a special exception of 57 spaces (23% reduction) to the parking regulations.

LOCATION: 13101 Preston Road

APPLICANT: Shafer Property Company
Represented by Masterplan

REQUEST:

- A special exception to the off-street parking regulations of 57 spaces is requested in conjunction with constructing and maintaining a financial institution with drive-in window on a site currently developed with an office (Bankers Financial Mortgage). The applicant proposes to provide 189 (or 77%) of the total 246 spaces that are required for the existing and proposed uses/structures on the site.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Development Services Senior Engineer has commented that he cannot make a recommendation on the request given the lack of information that has been submitted by the applicant – specifically a parking study with an exhibit that provides information regarding the date of the study, the number of small professional firms/employees, etc.
- The applicant has not substantiated how the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not

warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The Dallas Development Code requires the following parking requirements for, according to a document submitted with the application, the proposed “office” and “financial institution with drive-in window” uses on the subject site:
 - “Office” use: 1 space is required per 333 square feet of floor area. If more than ten off-street parking spaces are required for this use, handicapped parking must be provided pursuant to Section 51A-4.305.
 - “Financial institution with drive-in window” use: 1 space is required per 333 square feet of floor area. If more than ten off-street parking spaces are required for this use, handicapped parking must be provided pursuant to Section 51A-4.305.

The applicant’s representative submitted a document and a revised site plan on March 27, 2007 (see Attachment A) that were to replace documents and a site plan that were submitted with the original application.

The revised document and site plan denote an existing 77,600 square foot office building/use, and a 4,030 square foot financial institution with drive through building/use.

- The applicant’s representative submitted additional information beyond what was submitted with the original application (see Attachment A). This information included a revised site plan that correctly conveyed the number of off-street parking spaces required for the proposed development.
- On April 6, 2007, the applicant’s representative submitted additional information beyond what was submitted with the original application and what was discussed at the April 2nd staff review team meeting (see Attachment C). This information included photos of the site and surrounding area, and an exhibit related to parking on the site. (This information was not factored into the staff recommendation since it was submitted after the staff review team meeting).

BACKGROUND INFORMATION:

Zoning:

Site: LO-2 (Limited Office)
North: RR (Regional Retail)
South: MU-1 (Mixed Use)
East: RR (Regional Retail)
West: RR (Regional Retail)

Land Use:

The subject site is developed with an office structure. The areas to the north, east, and west are developed with retail uses, and the area to the south is a freeway (LBJ Freeway).

Zoning/BDA History:

1. Z056-226, Preston Road and LBJ Freeway, northwest corner (the On December 21, 2006, the City Plan Commission granted a request for a 6 month

subject site)

extension to schedule for City Council. On May 18, 2006, the City Plan Commission recommended approval of the applicant's request for an MU-1 zoning district with deed restrictions on property zoned LO-2 in lieu of an MC-2 district. The case report states that the applicant has not provided the executed volunteered deed restrictions required to schedule the case for City Council consideration. The deed restrictions limited the existing structure to its present height of 95 feet or six stories and the proposed building height to 45 feet or 3 stories.

2. BDA 990-236, 13141 Preston Road (the area immediately north and west of the subject site)

On April 18, 2000, the Board of Adjustment Panel B granted a request for a special exception to the off-street parking regulations of 1,123 spaces (or 15% of the total parking requirement). The board imposed the following conditions: compliance with the submitted site plan is required, and the special exception automatically and immediately terminates if and when the retail and restaurant uses on the site area changed or discontinued; and that improvements to Dilbeck Lane access to the Valley View Center be put in place as soon as it is feasible. The case report stated that the request was made in conjunction with constructing a 20-screen theater (located in the Valley View Mall shopping center) and 25,000 square feet of restaurants to be located in the southwest corner of the subject site.

Timeline:

- Jan. 26, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Feb. 15, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Feb. 15, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;

- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 2nd deadline to submit additional evidence for staff to factor into their analysis/recommendation;
- the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 1, 2007 The applicant's representative emailed the Board Administrator requesting that this application be delayed until Board of Adjustment Panel A's April 17th agenda.

March 23, 2007: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 30th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
- the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 27, 2007 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

- March 27, 2007 The Building Inspection Development Code Specialist forwarded a revised Building Official's report pertaining to the application (see Attachment B).
- April 2, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.
- The District Manager of Code Compliance submitted a review comment sheet marked "No comments."
- April 3, 2007 The Development Services Senior Engineer submitted an unmarked review comment sheet with the following comments:
- "Cannot make any recommendation. The undated letter explanation/letter refers to a parking study; however, the parking study does not have the exhibit that may provide info. such as date of study, number of small prof. firms/employees, etc."
- April 6, 2007 The applicant's representative submitted information beyond what was submitted with the original application and discussed at the April 2nd staff review team meeting (see Attachment C).

STAFF ANALYSIS:

- 77 percent of the required off-street parking spaces are proposed to be provided in conjunction with constructing and maintaining a 4,030 square foot financial institution with drive-in window use on a site developed with a 77,600 square foot office tower (Bankers Financial Mortgage).
- Granting this request, subject to the condition that the special exception of 57 spaces automatically and immediately terminates if and when the proposed financial institution with drive-in window use and existing office use on the site are changed or discontinued, would allow the site to be developed with the proposed 4,030 square foot financial institution with drive-in window use along with the retention of the existing 77,600 square foot office tower.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed financial institution with drive-in window use along with the existing office use does not warrant the number of off-street parking spaces required, and
 - The special exception of 57 spaces (or 23% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- The Development Services Senior Engineer has commented that he cannot make a recommendation on the request given the lack of information that has been submitted by the applicant – specifically a parking study with an exhibit that provides

information regarding the date of the study, the number of small professional firms/employees, etc.

FILE NUMBER: BDA 067-059

BUILDING OFFICIAL'S REPORT:

Application of Robert L. Chisolm for a special exception to the visibility obstruction regulations at 10636 Royal Chapel Drive. This property is more fully described as Lot 1 in City Block 1/6432 and is zoned R-10(A) which requires a 45 foot visibility triangle at street intersections. The applicant proposes to maintain a fence and an accessory structure within a required visibility triangle which would require a special exception.

LOCATION: 10636 Royal Chapel Drive

APPLICANT: Robert L. Chisolm

REQUEST:

- A special exception to the visibility obstruction regulations is requested in conjunction with maintaining portions of an existing 8' high board on board fence/wall and accessory storage building in the 45' visibility triangle at the Flowerdale Lane/Webb Chapel Road intersection on a site that is developed with a single family home.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated how the request to maintain portions of an existing 8' high board on board fence/wall and accessory storage building in the 45' visibility triangle at the Flowerdale Lane/Webb Chapel Road intersection does not constitute a traffic hazard.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visibility obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to visibility triangles: 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 intersections and 20-foot visibility triangles at drive approaches); and
- between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The applicant has submitted a site plan and an elevation denoting an 8' high cedar board on board fence and a portion of a 160 square foot storage building in the 45' visibility triangle at the intersection of Flowerdale Lane and Webb Chapel Road. The site plan denotes that the fence/wall is located 8' from the pavement line of Webb Chapel Road and 12.5' from the pavement line of Flowerdale Lane. According to the site plan, about 24' of the fence/wall length is in the visibility triangle along Webb Chapel Road, and about 25' of the fence/wall length is in the visibility triangle along Flowerdale Lane. The site plan additionally denotes that over half of the existing accessory storage structure is in the visibility triangle.

- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a document that provides additional details about the request; and
 - photos of the subject site.
- On April 5, 2007, the applicant submitted additional information beyond what was submitted with the original application and beyond what was discussed at the April 2nd staff review team meeting (see Attachment C). This information was not factored into the staff recommendation given the timing of its submittal but included the following:
 - a document that provides additional details about the request in response to the Development Services Senior Engineer's comments; and
 - a photo of the fence on the subject site with a tape showing a 26' visibility triangle scenario.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-10 (A) (Single family district 10,000 square feet)
<u>North:</u>	R-10 (A) (Single family district 10,000 square feet)
<u>South:</u>	R-10 (A) (Single family district 10,000 square feet)
<u>East:</u>	R-10 (A) (Single family district 10,000 square feet)
<u>West:</u>	R-10 (A) (Single family district 10,000 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.

Timeline:

- Feb. 20, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 22, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 22, 2007: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 30th deadline to submit additional evidence for staff to factor into their analysis;
 - the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 26, 2007 The applicant submitted information beyond what was submitted with the original application (see Attachment A).
- April 2, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.
- The District Manager of Code Compliance submitted a review comment sheet marked "No comments."
- April 4, 2007 The Development Services Senior Engineer submitted attachments and a review comment sheet (see Attachment B). The engineer made the following comments:
- No recommendation.

- 2 comments:
 1. The intersection sight distance (rt. Side, fig. 5) is adequate for eastbound traffic on Flowerdale Lane.
 2. From the site plan submitted (scale 1" = 20') it appears that the fence can be set back 10 feet to provide a 30' x 30' intersection.

April 5, 2007

The applicant submitted information beyond what was submitted with the original application and beyond what was discussed at the April 2nd staff review team meeting (see Attachment C).

STAFF ANALYSIS:

- The Development Services Senior Engineer has commented that the intersection sight distance is adequate for eastbound traffic on Flowerdale Lane, and that it appears from the submitted site plan that the fence can be set back 10' to provide a 30' x 30' intersection visibility triangle. (According to calculations taken from the submitted site plan by the Board Administrator, it appears that an approximately 20' visibility triangle is being provided).
- The applicant has stated that the fence that is located in the visibility triangle is in the same location as a fence that was located on the site in 1969 prior to the widening of Webb Chapel Road around 1980.
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visibility obstruction regulations (whereby, according to the submitted site plan and elevation, an 8' high cedar board on board fence/wall and an accessory storage structure in the 45' visibility triangle at the intersection of Flowerdale Lane and Webb Chapel Road) does not constitute a traffic hazard.
- If this request is granted, subject to compliance with the submitted site plan and elevation, about 24' of the fence/wall along Webb Chapel Road, about 25' of the fence/wall along Flowerdale Lane, and over half of a 160 square foot accessory storage structure would be "excepted" into the 45' visibility triangle at the intersection of Webb Chapel Road and Flowerdale Lane.

FILE NUMBER: BDA 067-061

BUILDING OFFICIAL'S REPORT:

Application of Goody Goody Liquor, Inc., represented by James Schnurr, for special exceptions to the sign and visibility obstruction regulations at 7124 Greenville Avenue. This property is more fully described as Lot 4B in City Block 6/5199 and is zoned MU-3 which allows only one detached sign per street frontage other than expressways, and requires a 20 foot visibility triangle at a street and driveway intersection. The applicant proposes to construct a second additional detached premise sign, and to locate the proposed sign in a required visibility triangle which would require special exceptions to the sign and visibility obstruction regulations.

LOCATION: 7124 Greenville Avenue

APPLICANT: Goody Goody Liquor, Inc.
Represented by James Schnurr

REQUESTS:

- The following appeals have been made in this application:
 1. a special exception to the sign regulations; and
 2. a special exception to the visibility obstruction regulations.The special exceptions are requested to:
 - locate and maintain an additional detached sign on a site developed with a retail use (Goody Goody Liquor); and
 - locate and maintain this additional detached sign in the northern 20' drive approach visibility triangle into the site from Greenville Avenue.

STAFF RECOMMENDATION (sign special exception):

Denial

Rationale:

- The applicant has not substantiated how strict compliance with the requirement of the sign regulations (i.e. the site having one sign on Greenville Avenue) will result in substantial financial hardship or inequity to the applicant.

The applicant does not contend that an additional sign (in this case a proposed monument sign) is needed to see/locate the retail business on the site for those traveling southbound on Greenville Avenue, and although the applicant contends that an additional sign is needed to see/locate the retail business on the site for those traveling northbound on Greenville given an existing fence, shrubs, and sign located on the property immediately south of the subject site, the applicant has not provided information as to why one new sign could not be erected/located on the site

that could be seen by those traveling northbound and southbound on Greenville Avenue at a height higher than the fence/shrubs and lower than the sign on the property immediately south of the subject site, and a sign that complies with the City's visibility obstruction regulations.

- In addition, staff concluded that there does appear to be a corresponding benefit to the city and its citizens in accomplishing the objections of the sign regulations in this case (i.e. the site being limited to one sign on Greenville Avenue) since it appears that the only way that the applicant offers to achieve visibility to his business to those traveling northbound on Greenville Avenue is to retain the existing pole sign (that is obscured by another pole sign immediately south of the site) and to locate/maintain another monument sign in a required visibility triangle that the Development Services Senior Engineer does not support.

A viable option is for the applicant to comply with the sign and visibility obstruction regulations by erecting one new sign on the site that is located outside of visibility triangles and at a height/location visible to those traveling northbound and southbound on Greenville Avenue.

STAFF RECOMMENDATION (visibility obstruction special exception):

Denial

Rationale:

- The City's Development Services Senior Engineer states that the sign must be located outside the 20' x 20' driveway visibility triangle.
- The applicant's representative has not substantiated how locating a monument sign in the required 20' visibility triangle at the site's northern drive approach will not constitute a traffic hazard.

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

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visibility obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

GENERAL FACTS (related to the sign special exception):

- The Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways.

The applicant has submitted a survey plat with revisions made on March 26th (see Attachment A) that denotes the location of the proposed sign and the location of the existing sign on the subject site. The survey plat indicates that the proposed sign is to be located on the north side of the driveway into the site perpendicular to Greenville Avenue about 3' from the front property line (curb line not clearly shown). The survey plat indicates that the existing sign is located on the south side of the driveway into the site perpendicular to Greenville Avenue about 30' from the front property line. The survey plat does not clearly show the location of driveway and curb lines therefore staff was unable to determine whether or not the proposed sign was located in a 20' visibility triangle at the site's drive approach.

On March 26th, the Board Administrator encouraged the applicant's representative to submit a site plan that provided this information that would in turn, lead the applicant to possibly relocate the proposed sign outside the 20' drive approach visibility triangle, or to make application with the board for a special exception to the visibility obstruction regulations in order to locate/maintain a sign in the required triangle.

On April 2, 2007, the applicant added a request for a special exception to the visibility obstruction regulations.

The applicant has submitted an elevation of the proposed sign that is 5' 10" high and 12' long. An elevation of the existing sign has not been submitted.

Although staff had requested that the applicant's representative submit a site plan that clearly delineated the location of the proposed sign in relation to existing driveway and street curb lines in order to assess to what degree the proposed sign was in the required visibility triangle, none was submitted. Letters have been written by the applicant's representative stating that the sign is proposed to be located as close as 15' from the curb line.

- A plat map was submitted that shows that the site is irregular in shape with about 44' of frontage on Greenville Avenue on the west side of the site, broadening to 250' on its eastern boundary. The code allows one detached sign per frontage regardless of the length of a site's frontage.
- On March 29, 2007, the applicant's representative submitted additional information to staff regarding the request (see Attachment B). This information included the following:
 - a letter that provided additional details about the request; and
 - a copy of a sign permit for the sign currently on the subject site.
- On April 5, 2007, the applicant's representative submitted additional information to staff regarding the request beyond what was submitted with the original application and discussed at the April 2nd staff review team meeting (see Attachment D). This information included the following:
 - a letter that provided additional details about the request; and
 - photos of the site and surrounding area.

GENERAL FACTS (related to the visibility obstruction special exception):

- The Dallas Development Code states the following with regard to visibility triangles: 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 intersections and 20-foot visibility triangles at drive approaches); and
 - between 2.5 – 8 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).
 On April 2, 2007, the applicant’s representative added a request for a special exception to the visibility obstruction regulations after the staff review team meeting on this application which was originally submitted as only a request for a special exception to the sign regulations for an additional sign.

The applicant submitted an elevation of the proposed sign to be located in the visibility triangle that is 5’ 10” high and 12’ long.

The applicant’s representative has written in March 29th correspondence (Attachment B) that the “applicant is requesting to locate the proposed monument sign 15’ from the curb line.” A survey plat has been submitted that indicates the location of the proposed sign location that appears to be located in the 20’ visibility triangle on the north side of the drive approach into the site from Greenville Avenue, however, the survey plat does not clearly show the location of driveway and curb lines, therefore staff was unable to determine how much of the proposed sign is located in the required 20’ visibility triangle at the site’s drive approach.

Although staff had requested that the applicant’s representative submit a site plan that clearly delineated the location of the proposed sign in relation to existing driveway and street curb lines, none was submitted. Letters have been written by the applicant’s representative stating that the sign is proposed to be located as close as 15’ from the curb line.
- On March 29, 2007, the applicant’s representative submitted additional information to staff regarding the request (see Attachment B). This information included the following:
 - a letter that provided additional details about the request; and
 - a copy of a sign permit for the sign currently on the subject site.
- On April 5, 2007, the applicant’s representative submitted additional information to staff regarding the request beyond what was submitted with the original application and discussed at the April 2nd staff review team meeting (see Attachment D). This information included the following:
 - a letter that provided additional details about the request; and
 - photos of the site and surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed Use)
North: MU-3 (Mixed Use)
South: MU-3 (Mixed Use)
East: MF-1(A) (Multifamily)
West: PD No. 453 (Planned Development District)

Land Use:

The site is currently developed as a retail use (Goody Goody Liquor). The areas to the north, south, and west are developed with retail uses; and the area to the east is developed with 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.

Timeline:

- Feb. 22, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 22, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 22, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 30th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
 - the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 26, 2007: The Board Administrator encouraged the applicant's representative to submit a site plan that indicates the curb and driveway lines of the subject site along with the actual location of the proposed sign in order for staff to determine that the proposed sign is in compliance with the visibility obstruction regulations.

- March 29, 2007 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment B).
- April 2, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- April 3, 2007 The Building Inspection Development Code Specialist forwarded a revised Building Official's Report to the Board Administrator (see Attachment C). This amended report reflected an added appeal made after the staff review team meeting: a special exception to the visibility obstruction regulations.
- April 4, 2007 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting:
1. The sign must be located outside the 20' x 20' driveway visibility triangles. (The site plan provides no info. on dimension, the letter dated March 29, 2007 indicated 15' from the curb.)
- April 5, 2007 The applicant's representative submitted additional information beyond what was submitted with the original application and beyond what was discussed at the April 2nd staff review team meeting (see Attachment D).

STAFF ANALYSIS (related to the sign special exception):

- The subject site has about 44' of frontage onto Greenville Avenue, however, the amount of the site's frontage is of little relevance since the Dallas Development Code states that (other than sites with expressway frontage) only one detached sign is allowed per street frontage (regardless of the length of a site's frontage).
- The applicant proposes to retain an existing pole sign on the site, described as a large (400 square foot) detached premise sign, of which no elevation has been submitted, located (according to a submitted survey plat) about 30' from the Greenville Avenue front property line, and to add/maintain an approximately 61 square foot monument sign located (according to a submitted survey plat) about 4' from the Greenville Avenue front property line, and according to letters written by the applicant's representative, as close as 15' from the curb line. The survey plat indicates that the signs would be located about 45' apart – one on the north side of the drive approach into the site, the other on the south side of the drive approach into the site.

- A sign elevation of the proposed additional monument sign has been submitted indicating a sign that is 5' 10" high and 12' long. (A sign elevation of the existing sign has not 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 on Greenville Avenue) 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.
- Granting this special exception (with conditions imposed that the applicant complies with the submitted survey plat and proposed sign elevation) would allow a 2nd sign to be located on the site's street frontage, and would assure that the existing and proposed signs are located/maintained as shown on the survey plat, and that the additional/second sign is constructed/maintained as indicated on the submitted sign elevation (a sign that is shown to be 5' 10" high and 12' long). There would be no limitations on the existing sign's characteristics since no elevation of it has been submitted other than for it to comply with provisions set forth in the Dallas Development Code.

STAFF ANALYSIS (related to the visibility obstruction special exception):

- The Development Services Senior Engineer has commented that the proposed additional sign must be located outside the 20' x 20' driveway visibility triangles (that the site plan provided no dimension and the letter dated March 29, 2007 indicated 15' from the curb).
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visibility obstruction regulations (whereby, according to letters written by the applicant's representative, an additional monument sign would be located as close as 15 feet from the curb line in the 20' visibility triangle at the northern drive approach into the site from Greenville Avenue) will not constitute a traffic hazard.
- No site plan has been submitted that denotes the location of the proposed monument sign in the northern drive approach visibility triangle. As a result, if the Board chooses to grant this request upon the applicant's proof that the sign's location in the required visibility triangle does not constitute a traffic hazard, staff would suggest that the board impose some type of condition that would place limitations on its location such as a site plan that shows the exact location of the proposed sign no closer than 15' from the curb line, or a condition that states that the sign must not be located closer than 15' from the curb line. Staff would also suggest that if the board chooses to grant the request that they impose a condition that the applicant comply with the submitted elevation to ensure that the additional sign to be located in the required visibility triangle is constructed/maintained as shown at 5' 10" in height and 12' in length.