

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN AUDITORIUM  
TUESDAY, JUNE 24, 2014**

**MEMBERS PRESENT AT BRIEFING:**

Clint Nolen, Vice Chair, Larry French, regular member, Lindsey Williams, regular member Mark Rieves, regular member, and Jim Gaspard, alternate member

**MEMBERS ABSENT FROM BRIEFING:**

Hector Leija, regular member

**STAFF PRESENT AT BRIEFING:**

Steve Long, Board Administrator and Acting Board Secretary, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief, Arborist Ali Hatefi, Engineer

**MEMBERS PRESENT AT HEARING:**

Clint Nolen, Vice Chair, Larry French, regular member, Lindsey Williams, regular member Mark Rieves, regular member, and Jim Gaspard, alternate member

**MEMBERS ABSENT FROM HEARING:**

Hector Leija, regular member

**STAFF PRESENT AT HEARING:**

Steve Long, Board Administrator and Acting Board Secretary, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief, Arborist Ali Hatefi, Engineer

**11:06 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 24, 2014** docket.

**\*\*\*\*\*  
1:01 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.

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### **MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A **May 20, 2014** public hearing minutes.

#### **BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

**MOTION:** Nolen

I move **approval** of the Tuesday, **May 20, 2014** public hearing minutes.

**SECONDED:** Gaspard

**AYES:** 5 – Nolen, French, Williams, Rieves, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 134-051

**BUILDING OFFICIAL'S REPORT:** Application of Jennifer Hajduk for a special exception to the fence height regulations at 10105 Casa View Avenue. This property is more fully described as Lot 23, Block G/7403, 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/maintain a 6 foot high fence, which will require a 2 foot special exception to the fence height regulations.

**LOCATION:** 10105 Casa View Avenue

**APPLICANT:** Jennifer Hajduk

#### **REQUEST:**

A special exception to the fence height regulations of 2' is requested to replace an existing approximately 4' high open chain link fence with a proposed 6' high solid board-on-board cedar fence in the one of the site's two required front yards (Highwood Drive) on a site that is developed with a single family home.

#### **STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences when, in the opinion of the board, the special exception will not adversely affect neighboring property.

#### **STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to the fence height regulations since the basis for this type of appeal is *when in the opinion of the board*, the special exception will not adversely affect neighboring property.

## **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: PD 824 (Planned Development)  
East: R-7.5(A) (Single family district 7,500 square feet)  
West: R-7.5(A) (Single family district 7,500 square feet)

### **Land Use:**

The subject site is developed with a single family home. The areas to the north, east, and west are developed with single family uses; and the area to the south is developed with a public high school use (Bryan Adams High School).

### **Zoning/BDA History:**

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

## **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on replacing an existing approximately 4' high open chain link fence with a proposed 6' high solid board-on-board cedar fence in the one of the site's two required front yards (Highwood Drive) on a site that is developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the north corner of Casa View Avenue and Highwood Drive. The site has a 30' required front yard along Casa View Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 20' required front yard along Highland Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence is allowed by right. But the site's Highland Road frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the front yard setback established by the lots developed with single family homes northwest of the site that front/are oriented southwestward towards Highwood Drive. Regardless of how the home is oriented to front onto Casa View Avenue (and "side" to Highwood Drive), the site has two required front yards where the focus of the applicant's request in this application is only to replace and maintain a fence higher than 4' in the site's required front yard on Highwood Drive. No part of the application is made to address any fence in the site's Casa View Avenue front yard setback.

- The applicant has submitted a site plan and elevation of the proposal in the Highwood Drive required front yard with notations indicating that the fence reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
  - The proposed fence that would replace the existing fence in the Highwood Road required front yard is represented as being approximately 48' in length parallel to the Highwood Drive and approximately 23' in length perpendicular to the street on the northwest and southeast sides of the site in the required front yard.
  - The proposal is represented as being located approximately 2' from this front property line. (No dimension can be given of the fence relative to the pavement line since no representation of the pavement line is denoted on the submitted site plan).
- The proposal is located across from one single family home which has no fence in its front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of June 16th, 2014, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the Highwood Drive required front yard to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

- March 23, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 19, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 20, 2014: 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 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 13<sup>th</sup> 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.

June 10, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gaspard

I move that the Board of Adjustment grant application **BDA 134-051** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted landscape plan is required.

SECONDED: Williams

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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FILE NUMBER: BDA 134-054

**BUILDING OFFICIAL'S REPORT:** Application of Stephen P. Duncan for a special exception to the fence height regulations at 8809 Sanshire Avenue. This property is more fully described as Lot 15, Block 8/8134, 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/maintain an 8 foot 6 inch high fence, which will require a 4 foot 6 inch special exception to the fence height regulations.

LOCATION: 8809 Sanshire Avenue

APPLICANT: Stephen P. Duncan

**REQUEST:**

A special exception to the fence height regulations of 4' 6" is requested to replace according to the application "a wood fence in same location at same height" – which according the submitted elevation is an 8' 6" high solid board-on-board cedar fence in the one of the site's two front yards (Lizshire Drive) on a site that is developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences when, in the opinion of the board, the special exception will not adversely affect neighboring property.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to the fence height regulations since the basis for this type of appeal is *when in the opinion of the board*, the special exception will not adversely affect neighboring property.

**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: R-7.5(A) (Single family district 7,500 square feet)  
West: R-7.5(A) (Single family district 7,500 square feet)

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on (according to the application) replacing "a wood fence in same location at same height" – which according the submitted elevation is an 8' 6" high solid board-on-board cedar fence in the one of the site's two front yards (Lizshire Drive) on a site that is developed with a single family home.

- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the north corner of Sanshire Avenue and Lizshire Avenue. The site has a 25' front yard setback along Sanshire Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 15' required front yard along Lizshire Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence is allowed by right. But the site's Lizshire Avenue frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the front yard setback established by the lots developed with single family homes northeast of the site that front/are oriented southeastward towards Lizshire Avenue. Regardless of how the home is oriented to front onto Sanshire Avenue (and "side" to Lizshire Avenue), the site has two front yards where the focus of the applicant's request in this application is only to replace and maintain a fence higher than 4' in the site's required front yard on Lizshire Avenue. No part of the application is made to address any fence in the site's Sanshire Avenue front yard setback.
- The applicant has submitted a site plan and elevation of the proposal in the Lizshire Avenue required front yard with notations indicating that the proposal reaches a maximum height of 8' 6".
- The following additional information was gleaned from the submitted site plan:
  - The proposed replacement fence that would replace the existing fence in the Lizshire Avenue front yard setback is represented as being approximately 60' in length parallel to the this street and approximately 14' in length perpendicular to the street on the southwest and northeast sides of the site in the front yard setback.
  - The proposal is represented as being located approximately on this front property line and approximately 12' from the pavement line.
- The proposal is located across from two single family homes neither of which have fences in their front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of June 16th, 2014, one petition signed by 16 neighbors/owners 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 height regulations of 4' 6" will not adversely affect neighboring property.
- Granting this special exception of 4' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the Lizshire Avenue front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

- April 18, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 20, 2014: 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 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 13<sup>th</sup> 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.
- June 11, 2014: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).
- June 10, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

#### **BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gaspard

I move that the Board of Adjustment grant application **BDA 134-054** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Williams

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER**: BDA 134-058

**BUILDING OFFICIAL'S REPORT**: Application of Rosario Hernandez, represented by Elias Rodriguez of Construction Concepts, for a special exception to the side yard setback regulations for a carport at 554 Elwayne Avenue. This property is more fully described as Lot 18, Block 6250, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct/maintain a carport and provide a 1 foot 6 inch setback, which will require a 3 foot 6 inch special exception to the side yard setback regulations.

**LOCATION**: 554 Elwayne Avenue

**APPLICANT**: Rosario Hernandez  
Represented by Elias Rodriguez of Construction Concepts

**REQUEST**:

A special exception to the side yard setback regulations of 3' 6" is requested to modify and maintain an, approximately, 820 square foot carport attached to a single-family home, part of which is proposed to be located in the site's southern 5' side yard setback.

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

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

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

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

**STAFF RECOMMENDATION**:

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

## **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: R-7.5(A) (Single family district 7,500 square feet)  
West: R-7.5(A) (Single family district 7,500 square feet)

### **Land Use:**

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

### **Zoning/BDA History:**

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

## **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on modifying and maintaining an approximately 820 square foot carport attached to a single-family home, part of which is located in the site's southern 5' side yard setback.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted a revised site plan and an elevation indicating the location of the carport 1' 6" away from the site's southern side property line.
- The following information was gleaned from the submitted revised site plan:
  - The carport is represented to be 60' in length and 13' 8" in width (approximately 820 square feet in total area) of which approximately 180 square feet (or approximately 22 percent) would be located in the southern side yard setback.
- The following information was gleaned from the submitted elevation:
  - The carport is represented to be approximately 12' in height with 8 x 8 columns and 'composition roofing.'
- The subject site is approximately 150' x 50' (or 7,500 square feet) in area.
- The Board Administrator conducted a field visit of the area approximately 500 feet north and south of the subject site and noted no other carports that appeared to be located in a side yard setback.
- As of June 16, 2014, no letters had been submitted in support of or in opposition to the request.

- The applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 3' 6" will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be modified/maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with the submitted revised site plan and elevation is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.

**Timeline:**

- April 24, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 20, 2014: The Board Administrator shared the following information via email:
  - an attachment that provided the public hearing date and panel that will consider the application; the May 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 13<sup>th</sup> 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."
- June 10, 2014: The Building Inspection Senior Plans Examiner/Development Code Specialist submitted a revised site plan prepared by the applicant to the Board Administrator (see Attachment A).
- June 10, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gaspard

I move that the Board of Adjustment grant application **BDA 134-058** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Williams

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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FILE NUMBER: BDA 134-063

**BUILDING OFFICIAL'S REPORT:** Application of Ray Bronner for a special exception to the visual obstruction regulations at 5202 Denton Drive. This property is more fully described as Lot 28, Block H/2337, and is zoned PD 193 (R-7.5), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate/maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations

LOCATION: 5202 Denton Drive

APPLICANT: Ray Bronner

REQUEST:

A special exception to the visual obstruction regulations is requested to maintain an 8' high solid wood fence in the 20' visibility triangle on south side of the driveway into the site from Crestview Drive on a site developed with a single family home.

### **STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

### **STAFF RECOMMENDATION:**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has no objections to this request.
- The applicant has substantiated how the location of the fence located in the 20' visibility triangle at the driveway into the site from Crestview Drive does not constitute a traffic hazard.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: PD 193 (R-7.5) (Planned Development, Single family)  
North: PD 193 (R-7.5) (Planned Development, Single family)  
South: PD 193 (R-7.5) (Planned Development, Single family)  
East: PD 193 (R-7.5) (Planned Development, Single family)  
West: PD 193 (R-7.5) (Planned Development, Single family)

#### **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:**

1. BDA 123-018, Property at 5127 Stoneleigh Avenue (the property immediately northeast of the subject site)

On March 18, 2013, the Board of Adjustment Panel C granted requests for special exceptions to the visual obstruction regulations and imposed the submitted site plan and elevation as a condition to these requests. The case report stated that the requests were made to maintain an 8' high solid board-on-board fence and sliding gate

2. BDA 123-023, Property at 5203 Stoneleigh Avenue (the property immediately north of the subject site)

located in the two 20' visibility triangles on either side of the driveway into the site from Crestview Drive on property developed with a single family home.

On March 17, 2014, the Board of Adjustment Panel C granted requests for special exceptions to the visual obstruction regulations and imposed the submitted site plan and elevation as a condition to these requests. The case report stated that the requests were made to maintain an 8' high solid wood fence in the two, 20' visibility triangles on either side of the driveway into the site from Crestview Drive; and in the 20' visibility triangle at where the alley on the southwest side of the site meets Crestview Drive.

#### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on maintaining an existing 8' high solid wood fence in the 20' visibility triangle on the south side of the driveway into the site from Crestview Drive on a site developed with a single family home.
- 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).
- PD 193 defines "visibility triangle" as
  1. where a street designated on the city's thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
  2. where two streets not designated on the city's thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
  3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.

- A site plan and elevation have been submitted indicating portions of a fence located in the 20' visibility triangle on south side of the driveway into the site from Crestview Drive.
- The Sustainable Development and Construction Department Senior Engineer 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 portions of an existing 8' high solid wood fence located in the 20' visibility triangle on the south side of the driveway into the site from Crestview 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 located in the 20' drive approach visibility triangle to that what is shown on these documents – an 8' high solid wood fence.

**Timeline:**

- April 29, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 20, 2014: The Board Administrator contacted the applicant and shared the following information via email:
  - an attachment that provided the public hearing date and panel that will consider the application; the May 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 13<sup>th</sup> 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."
- June 10, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

June 10, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."

**BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gaspard

I move that the Board of Adjustment grant application **BDA 134-063** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Williams

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 134-042

**BUILDING OFFICIAL'S REPORT:** Application of Robert Reeves for a special exception to the landscape regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD-193(HC), which requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 100 Crescent Court

**APPLICANT:** Robert Reeves

**May 20, 2014 Public Hearing Notes:**

- The Board Administrator circulated additional written documentation submitted by the applicant to the Board at the briefing (see Attachment C).

**REQUEST:**

A special exception to the landscape regulations is made to construct and maintain an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), and not fully providing required landscaping.

### **STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:**

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

### **STAFF RECOMMENDATION:**

Delay action until Panel A's June 24, 2014 public hearing

#### Rationale:

- The City of Dallas Chief Arborist supports the applicant's request to delay action on this application until Panel A's June 24<sup>th</sup> public hearing given that the applicant stated he intends revise his alternate landscape plan.

### **BACKGROUND INFORMATION:**

Site: PD 193(HC) (Planned Development, Heavy Commercial)  
North: PD 193(HC) (Planned Development, Heavy Commercial)  
South: PD 193 (PDS 334) (Planned Development, Planned Development)  
East: PD 193(PDS 64) (Planned Development, Planned Development)  
West: PD 193(PDS 74) (Planned Development, Planned Development)

#### Land Use:

The subject site is developed with a mixed use development (The Crescent). The areas to the north, east, south, and west are developed with a mix of land uses.

#### Zoning/BDA History:

1. BDA 81-239, 239, Property at 2304 Cedar Springs Road (the subject site)
2. BDA 81-239A, Property at 100, 200, 300, 400, and 500 Crescent Court (the subject site)

On October 13, 1981, the Board of Adjustment granted a 599 parking space variance, subject to a parking study to be conducted approximately one year after initial completion of the project

On February 14, 1988, the Board of Adjustment granted a request for "a 599 parking space variance and eliminate the set-aside land provisions subject to a TMP

program as per the memo from Ken Melston, Manager of Transportation Engineering Services.

**Timeline:**

- March 12, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 14, 2014: The Board Administrator emailed the following information to the applicant:
- an attachment that provided the public hearing date and panel that will consider the application; the April 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 9<sup>th</sup> 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.”
- April 29, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- May 6, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.
- May 9, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- May 9, 2014: The City of Dallas Chief Arborist emailed the Board Administrator of his support of the applicant’s request to delay this matter until June where he would hold formal comments until a final revised alternate landscape plan has been submitted (see Attachment C).

## **GENERAL FACTS/ STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), and not fully providing required landscaping.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The applicant has requested that this application be delayed until Panel A's June 24<sup>th</sup> public hearing "to allow his client to go back before the Oak Lawn Committee in June with a revised alternate landscape plan and address their issues."
- The City of Dallas Chief Arborist supports the applicant's request for delay of action on this application until June of 2014.

## **BOARD OF ADJUSTMENT ACTION: MAY 20, 2014**

APPEARING IN FAVOR: Robert Reeves, 900 Jackson, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Leija**

I move that the Board of Adjustment, in Appeal No. **BDA 134-042**, hold this matter under advisement until June 24, 2014.

SECONDED: **Lewis**

AYES: 5 – Nolen, French, Leija, Rieves, Lewis

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

## **BOARD OF ADJUSTMENT ACTION: JUNE 24, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION #1: Nolen

I move that the Board of Adjustment, in Appeal No. **BDA 134-042**, move this application to the uncontested docket.

SECONDED: Rieves

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION #2: Gaspard

I move that the Board of Adjustment grant application **BDA 134-042** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised landscape plan is required.

SECONDED: Williams

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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MOTION: Gaspard

I move to adjourn this meeting.

SECONDED: Rieves

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**1:10 P. M.: - Board Meeting adjourned for June 24, 2014.**

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CHAIRPERSON

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BOARD ADMINISTRATOR

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BOARD SECRETARY

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**Note:** For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.