

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, 6ES
TUESDAY, SEPTEMBER 17, 2013**

MEMBERS PRESENT AT BRIEFING: Robert Moore, Vice Chair, Jordan Schweitzer, regular member, Scott Housel, regular member, and Clint Nolen, regular member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Laura Morrison, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Lloyd Denman, Asst. Director of Engineering, Neva Dean, Interim Asst. Director and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Robert Moore, Vice Chair, Jordan Schweitzer, regular member, Scott Housel, regular member and Clint Nolen, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Laura Morrison, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Lloyd Denman, Asst. Director of Engineering, and Trena Law, Board Secretary

11:00 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 17, 2013** docket.

1:00 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A **August 20, 2013** public hearing minutes.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

MOTION: Hounsel

I move **approval** of the Tuesday, **August 20, 2013** public hearing minutes as amended.

SECONDED: Schweitzer

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 123-085

BUILDING OFFICIAL’S REPORT: Application of Fran Lobpries for special exceptions to the fence height, visual obstruction, and off-street parking regulations at 4402 Leland Avenue (AKA: 4410 Leland Avenue). This property is more fully described as Lot 10A, Block A/1759 and is zoned PD-595 (R-5(A)), which limits the height of a fence in the front yard to 4 feet, requires a 20 foot visibility triangle at driveway approaches, and requires off-street parking to be provided. The applicant proposes to construct/maintain a 7 foot high fence, which will require a 3 foot special exception to the fence height regulations, and to locate/maintain items in required visibility triangles, which will require a special exception to the visual obstruction regulations, and to construct/maintain a structure for child-care facility and community service center uses and provide 33 of the required 43 off-street parking spaces, which will require a 10 space special exception to the off-street parking regulations.

LOCATION: 4402 Leland Avenue (AKA: 4410 Leland Avenue)

APPLICANT: Fran Lobpries

September 17, 2013 Public Hearing Notes:

- The Board Administrator circulated a September 12th email from the applicant requesting that the board delay the hearing until October in order for a fee reimbursement request to be considered on the same day as the applicant’s requests for special exceptions to the fence height, visual obstruction, and off-street parking regulations.

REQUESTS:

The following appeals have been made on a site that is currently developed with a community center use (Dallas Bethlehem Center):

1. Special exception to the fence height regulations of 3’ is requested in conjunction with maintaining what is described in the applicant’s submitted revised elevation as a

6' 4" high open metal vehicular gate and two 6' 6 ½" high open metal picket "door gates" in the site's 20' Leland Drive front yard setback.

2. Special exceptions to the visual obstruction regulations are requested in conjunction with maintaining portions of a 6' high open metal picket fence in the 20' visibility triangles on either side of the driveways into the site from Leland Avenue and Marburg Street.
3. A special exception to the off-street parking regulations of 10 parking spaces (or a 23 percent reduction of the 43 off-street parking spaces that are required) is made in conjunction with leasing and maintaining the existing structures on the site with child care facility and community center uses. The applicant proposes to provide 33 (or 77 percent) of the required 43 off-street parking spaces in conjunction with leasing and maintaining these uses on the property.

(Note that the applicant has stated that no special exception to the fence height regulations is needed to address the existing 6' high fence in the front yard setbacks on the property given that this fence is in compliance with a previously applied for and granted fence height special exception in 1999 (BDA 990-158)).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

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 delta credits, as defined in Section 51A-4.704(b)(A).
- 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.

STAFF RECOMMENDATION (fence height special exception):

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

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to these requests on the condition that no vegetation is to be permitted in any of the required visibility triangles. (The applicant's submitted revised site plan and revised elevation specify nothing in the visibility triangles other than an open metal picket fence).
- The applicant has substantiated how the location of portions of the existing 6' high open metal picket fence located in the 20' visibility triangles on either side of the driveways into the site from Leland Avenue and Marburg Street do not constitute a traffic hazard.

STAFF RECOMMENDATION (off-street parking special exception):

Approval, subject to the following condition:

- The special exception of 10 spaces shall automatically and immediately terminate if and when the child care facility and community center uses are changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the child care facility and community center uses 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 Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to this parking reduction request.

BACKGROUND INFORMATION:

Zoning:

Site: PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
North: PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
South: PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
East: PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
West: PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)

Land Use:

The subject site is developed with a community service center use (Dallas Bethlehem Center). The areas to the north, east, south, and west are developed with single family uses and vacant properties.

Zoning/BDA History:

1. BDA 990-158, Property at 4410 Leland Avenue (the subject site)

On December 14, 1999, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 2 feet, and imposed the following conditions: That the fence on the site is of open metal/iron material; and 2) That visibility triangles remain open on the site.

The case report stated that the request was made in conjunction with constructing and maintaining a 6' high open metal/iron picket fence in the front yard setback along Leland Road and Marburg Street on property

developed with a community service center use (Dallas Bethlehem Center).

Timeline:

- June 26, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 20, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”
- August 21, 2013: 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 August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- August 29, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application, and the Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a related amended Building Official’s Report (see Attachment A).
- September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- September 9, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant’s request for special exceptions to the visual obstruction and off-street parking regulations marked “Has no objections if certain conditions are met”

commenting “remove vegetation to improved visibility through the fence.”

GENERAL FACTS/STAFF ANALYSIS (fence height special exception):

- This request focuses on constructing and maintaining what is described in the applicant’s submitted elevation as a 6’ 4” high open metal vehicular gate and two 6’ 6 ½” high open metal picket “door gates” in the site’s 20’ Leland Drive front yard setback. (Note that the applicant has stated that no special exception to the fence height regulations is needed to address the existing 6’ high fence in the front yard setbacks on the property given that this fence is in compliance with a previously applied for and granted fence height special exception in 1999 (BDA 990-158)).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- The applicant has submitted a revised site plan and revised elevation of the proposal in the front yard setback that reaches a maximum height of 6’ 6 ½”.
- The total length of the 3 gates that require the fence height special exception is approximately 26’.
- As of September 9, 2013, 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 3’ will not adversely affect neighboring property.
- Granting this special exception of 3’ with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation would require the proposal exceeding 4’ in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

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

- These requests focus on maintaining portions of a 6’ high open metal picket fence in the 20’ visibility triangles on either side of the driveways into the site from Leland Avenue and Marburg Street.
- 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).
- A revised site plan and revised elevation has been submitted indicating portions of a 6’ high open metal picket fence located in the 20-foot visibility triangles on either side of the driveway into the site from Leland Avenue and on either side of two driveways into the site from Marburg Street.

- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” commenting “remove vegetation to improve visibility through the fence.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 6’ high open metal picket fence in the visibility triangles at three drive approaches into the site from Leland Avenue and Marburg Street does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation would require the item (a 6’ high open metal fence) in the 20 foot visibility triangles on either side of the driveways into the site from Leland Avenue and Marburg Street to be limited to the locations, height and materials of this item as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (off-street parking special exception):

- This request focuses leasing and maintaining the existing structures on the site with a total square footage of about 15,200 square feet of child care and community center uses. The proposed child care facility use is to be about 6,500 square feet and the proposed community center use is to be about 8,600 square feet. The applicant proposes to provide 33 (or 77 percent) of the required 43 off-street parking spaces in conjunction with leasing and maintaining these uses with these square footages on the property.
- The Dallas Development Code requires the following off-street parking requirement:
 - community service center: 1 space per 200 square feet of floor area. (The 8,680 square foot community service center requires 43 off-street parking spaces hence the special exception request of 10 spaces).
 - child care facility: if an SUP is required for this use, the off-street requirement may be established in the ordinance granting the SUP, otherwise one space per 500 square feet of floor area. (The 6,584 square foot child care facility requires 13 spaces that are requested to be established in an ordinance on a pending request for an SUP to be filed on this property depending on the outcome of this board of adjustment request for a special exception to off-street parking regulations).
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet and indicated that he has no objections to the off-street parking reduction request.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the child care facility and community center uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 10 spaces (or a 23 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 10 spaces shall automatically and immediately terminate if and when the child care facility and community service center uses are changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses and provide only 33 of the 43 code required off-street parking spaces

along with the off-street requirement for the child care facility use being established by City Council in a future ordinance granting a pending SUP request for this use.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

APPEARING IN FAVOR: No One

APPEARING IN OPPOSITION: No One

MOTION: **Nolen**

I move that the Board of Adjustment, in Appeal No. **BDA 123-085**, on application of Fran Lobpries, hold this matter under advisement until **October 22, 2013**.

SECONDED: **Hounsel**

AYES:4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0(unanimously)

FILE NUMBER: BDA 123-087

BUILDING OFFICIAL’S REPORT: Application of Anna Sullivan for a special exception to the fence height regulations at 9762 Audubon Place. This property is more fully described as Lot 4A, Block 14/5587 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain a 9 foot 5 inch high fence, which will require a 5 foot 5 inch special exception to the fence height regulations.

LOCATION: 9762 Audubon Place

APPLICANT: Anna Sullivan

REQUEST:

A special exception to the fence height regulations of 5’ 5” is made in conjunction with maintaining four decorative lanterns/lamps located atop four metal columns - decorative lanterns/lamps atop columns that were not part of a previously requested and granted fence height special exception request on the property in 2011 (BDA 101-092).

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

Land Use:

The subject site is developed with a single family home. The areas to the north, south, and west are developed with single family uses; and the area to the east is developed with a combination of single family uses and vacant lots.

Zoning/BDA History:

1. BDA 101-092, Property at 9762/9770 Audubon Place (the subject site)
On October 18, 2011, the Board of Adjustment Panel A granted a request for special exception to the fence height regulations of 2' 6" and imposed the submitted site plan and elevation as a condition to the request. The case report stated that the request was made to construct and maintain a 6' – 6' 3" high open iron picket fence and gate with 6' 6" high decorative metal columns/"pillars" in the site's 40' front yard setback on a lot developed with a single family home. (The proposed fence in this application was to be a continuation of an existing fence on the southern half of the property/subject site – a fence that appears to have been a result of a special exception to the fence height regulations granted by the Board of Adjustment Panel A in October of 1997: BDA 967-313).
2. BDA 967-313, Property at 9762 Audubon Place (the subject site)
On October 28, 1997, the Board of Adjustment Panel A granted a request for

special exception to the fence height regulations to maintain a 6 foot 6 inch high fence with 6 foot 10 inch high columns, and a 9 foot 6 inch high entry gate/columns, and imposed the following conditions: Compliance with the submitted site/landscape/elevation plan is required. The case report stated that the request was made in conjunction with constructing and maintaining a 6.6' open iron fence and 10 9.5' high solid iron columns (including decorative lights) in the Audubon Place front yard setback.

3. BDA 956-163, Property at 9769 Audubon Place (the property immediately west of the subject site)

On March 26, 1996, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations to maintain a 6.5' high open metal fence with 7.5' high columns, and special exception to maintain an additional dwelling unit on the property, subject to deed restricting the property to prevent the use of the additional dwelling unit as rental accommodations.

4. BDA 123-053, Property at 9727 Audubon Place (the property two lots southwest of the subject site)

On June 19, 2013, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 6' without prejudice. The case report stated that the request was made to replace an existing approximately 4' high open iron fence that spans approximately half the length of the subject site located in the site's 40' Audubon Place front yard setback with an 8' high open iron fence and columns with 10' high open iron gate/ entry columns that would span across the entire length of the site's Audubon Place front yard setback, and to construct and maintain an 8' high open iron fence in the site's Park Lane frontage where there is currently no fence.

5. BDA 123-053, Property at 9727 Audubon Place (the property two lots southwest of the subject site)

On October 21, 2009, the Board of Adjustment Panel B denied the requests for an additional dwelling unit on the property and a fence height special exception of 4' without prejudice. The case report stated

that a special exception to the fence height regulations of 4' was requested in conjunction with replacing an existing approximately 4' high open iron fence that spans approximately half the length of the subject site and located in the site's 40' Audubon Place front yard setback with a 6' high open iron fence with an 8' high open iron gate/stone entry columns flanked by 4' long, 6' – 7' 6" high stone wing walls that would span across the entire length of the site and be located in the site's two 40' Audubon Place and Park Lane front yard setbacks; and a special exception to the single family regulations was requested in conjunction with constructing and maintaining two-story, additional dwelling unit/"guesthouse/pool house" structure that would have (according to submitted plans) approximately 2,300 square feet "under roof" that would attach to the existing two-story single family home on the site that has (according to DCAD) 13,002 square feet of living area. The minutes of this hearing stated that the Board Administrator circulated an October 21st email from the applicant to the board members at the morning briefing – an email where the applicant requested that the board deny his requests without prejudice.

Timeline:

- July 10, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 20, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."
- August 20, 2013: 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 August 28th deadline to

submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

August 28, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on maintaining four decorative lanterns/lamps located atop four metal columns- decorative lanterns/lamps atop columns that were not part of a previously requested and granted fence height special exception request on the property in 2011 (BDA 101-092).
- In 2011, a fence height special exception was made on the property to construct and maintain a 6' – 6' 3" high open iron picket fence and gate with 6' 6" high decorative metal columns/"pillars" in the site's 40' front yard setback on a lot developed with a single family home, and where the applicant was conditioned to a site plan and elevation where the fence proposal did not exceed 2' 6" in height. The applicant has filed a new application on this property since the 2011 application did not include the lanterns/lamps atop columns that the applicant seeks to maintain as part of the fence proposal.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan/elevation document indicating a fence/column/gate proposal that would be located in the site's 40' front yard setback and would reach a maximum height of 9' 5".
- The applicant has stated that the fence is not moving forward or backwards and remains in the same location at the approved special exception in 2011, and that this request is not an amendment to the site plan in this submittal.

- The applicant has stated that the only difference between the approved 2011 condition and this submittal are ornamental light post heights and the addition of lanterns. (Note that the submitted elevation in this application denotes 6' 9" high columns with 32" high ornamental decorative lanterns – the fence special exception in 2011 granted a special exception for a 6' – 6' 3" high open iron picket fence and gate and only 6' 6" high decorative columns).
- One single family home has direct/indirect frontage to the proposal on the subject site, a property with a fence that appears higher than 4' in height in its front yard setback – an approximately 6.5' high open fence with 7.5' high columns that appears to be appears to be the result of a granted fence height special exception from March of 1996 – BDA 956-163.
- In addition to the fence mentioned above, the Board Administrator noted one other fence above four feet high in the immediate area (approximately 500 feet from the site along Audubon Place) which appeared to be located in the front yard setback: an approximately 8' high open metal fence with an approximately 10' high open metal gate. (There is no BDA history recorded on archive maps on this property).
- As of September 9, 2013, 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 5' 5" will not adversely affect neighboring property.
- Granting this special exception of 5' 5" with a condition imposed that the applicant complies with the site plan and elevation document would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the locations and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment grant application **BDA 123-087** 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: **Nolen**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 123-094

BUILDING OFFICIAL'S REPORT: Application of Cameron Leggett for a special exception to the fence height regulations at 10424 Marsh Lane. This property is more fully described as Tract 3, Block 6413 and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain a 7 foot 6 inch high fence, which will require a 3 foot 6 inch special exception to the fence height regulations.

LOCATION: 10424 Marsh Lane

APPLICANT: Cameron Leggett

REQUEST:

A special exception to the fence height regulations of 3' 6" is requested in conjunction with constructing and maintaining a 6' high open steel tube post fence with a 6' high open steel tube gate flanked by two approximately 6' solid masonry wing walls with approximately 7' 6" high entry gate columns in the site's 35' front yard setback on a site that is currently 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-16(A) (Single family residential 16,000 square feet)
North: R-16(A) (Single family residential 16,000 square feet)
South: R-16(A) (Single family residential 16,000 square feet)
East: R-16(A) (Single family residential 16,000 square feet)
West: R-16(A) (Single family residential 16,000 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north and south are undeveloped; and the areas to the 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.

Timeline:

July 25, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 20, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

August 20, 2013: 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 August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence;"
- that it appeared from review of the submitted site plan/elevation that the column cap may exceed 6' in height, and that if this were the case, he should amend his application to capture the highest component of your proposal in the front yard setback with the understanding that the maximum height of the proposal should be conveyed and requested which is beyond merely the height of a fence- that the heights of any gates, columns or even decorative lamps or finials on top of columns in the front yard setback should be denoted in this type of request;
- that any amendment to the application should be done so with Building Inspection staff no later than August 28th.

August 29, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application and the Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an amended Building Official's Report (see Attachment A).

September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the

Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 6' high open steel tube post fence with a 6' high open steel tube gate flanked by two approximately 6' solid masonry wing walls with approximately 7' 6" high entry gate columns in the site's 35' front yard setback on a site that is currently 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 applicant has submitted a revised site plan/elevation document and entryway elevation indicating that the proposal reaches a maximum height of 7' 6".
- The following additional information was gleaned from the submitted revised site plan/landscape plan/elevation document:
 - The proposal in the front yard setback is represented as being approximately 190' in length generally parallel to the street (with a recessed entry way) where approximately 35' of its length is solid stucco masonry (at the entry way) and where the remaining length is open steel tube posts.
 - The proposal is represented as being located approximately 12' from the front lot line on the property line or about 20' from the pavement line.
 - The fence is located behind a single row of 4' wide Foster Holly bushes and flanked on both sides with evergreen sumac.
- The proposal is located across from three single family homes none that have fences in their front yards over 4' in height.
- 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 September 9, 2013, one letter has been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting this special exception of 3' 6" with a condition imposed that the applicant complies with the submitted revised site plan/landscape plan/elevation document and entryway elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment grant application **BDA 123-094** 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 site plan/landscape plan/elevation and entry way elevation is required.

SECONDED: **Nolen**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 123-076

BUILDING OFFICIAL’S REPORT: Application of Bryan Hull for a variance to the front yard setback regulations at 4932 Cedar Springs Road. This property is more fully described as Lot 1B, Block A/2343 and is zoned PD-193 (MF-2), which requires a front yard setback of 15 feet. The applicant proposes to construct a structure and provide a 10 foot front yard setback, which will require a 5 foot variance to the front yard setback regulations.

LOCATION: 4932 Cedar Springs Road

APPLICANT: Bryan Hull

September 17, 2013 Public Hearing Notes:

- The Board Administrator circulated a September 17th email from the applicant requesting that the board deny the application without prejudice.

REQUEST:

A variance to the front yard setback regulations of 5’ is made in conjunction with constructing and maintaining a five-unit multifamily development structure, part of which would be located in the site’s Mahanna Street 15’ front yard setback on a site that is currently undeveloped. (No part of the proposed multifamily development structure is represented to be located in the site’s Cedar Springs Road 15’ front yard setback).

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- Even though the subject site is unique to most lots zoned PD 193 (MF-2) in that it has two front yard setbacks, and has, according to the City of Dallas Chief Arborist, a tree worthy of preservation, the applicant has not substantiated how these features preclude him from developing it in a manner commensurate with the development upon other parcels of land in the same PD 193 (MF-2) zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (MF-2) (Planned Development District, Multifamily)
North: PD 193 (MF-2) (Planned Development District, Multifamily)
South: PD 193 (MF-2) (Planned Development District, Multifamily)
East: PD 193 (MF-2) (Planned Development District, Multifamily))
West: PD 193 (MF-2) (Planned Development District, Multifamily)

Land Use:

The subject site is undeveloped. The areas to the north, east, south, and west are developed mostly as multifamily residential uses.

Zoning/BDA History:

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

Timeline:

- June 14, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 5, 2013: 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 July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th 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.
- August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- No additional review comment sheets with comments were submitted in conjunction with this application.
- August 20, 2013: The Board of Adjustment Panel A conducted a public hearing on this application. The Board held the request under advisement until September 17, 2013 in order for staff to consider information submitted by the applicant at the public hearing (see Attachment A), and for the applicant to make contact with the Oak Lawn Committee.
- August 20, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date that the panel that will consider the application; the August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board's docket materials; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 27, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original

application and beyond the materials that were part of the record at the August 20th public hearing (see Attachment B).

September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

September 5, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application and beyond the materials that were part of the record at the August 20th public hearing (see Attachment C).

September 5, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment D).

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 3-story, 5-unit, multifamily structure on an undeveloped site that would be located 10' from the Mahanna Street front property line or 5' into the required 15' front yard setback. No part of the proposed multifamily development structure is represented to be located in the site's Cedar Springs Road 15' front yard setback).
- Multiple family structures on lots zoned PD 193 (MF-1) are required to provide a minimum front yard setback of 15'.
- The subject site is located at the northeast corner of Cedar Springs Road and Mahanna Street. Regardless of how the proposed multifamily structure is to be oriented, the subject site has two 15' front yard setbacks along both streets. The site has a 15' front yard setback along Cedar Springs Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family, duplex, or multiple-family zoning district. The site also has a 15' front yard setback along Mahanna Street, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where depending on the height of the structure, a 0 - 10' setback is required. But the site's Mahanna Street frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots northeast of the site that have front yard setbacks along Mahanna Street.
- A revised site plan has been submitted denoting a portion of the proposed structure to be located 10' from the site's Mahanna Street front property line or 5' into the 15' front yard setback. (No structure is shown located in the site's Cedar Springs Road

front yard setback). This revised site plan denotes a “tree to be preserved” on the eastern side of the subject site.

- The City of Dallas Chief Arborist has stated that there is one large live oak tree of approximately 24 inches in diameter in the location presented on the site plan that appears to be shared by two properties; the tree is in good condition and is among other things worthy of preservation.
- It appears from calculations made by the Board Administrator from the submitted site plan that approximately 500 square feet (or about 16 percent) of the proposed approximately 3,200 square foot building footprint is to be located in the site’s Mahanna Street 15’ front yard setback.
- DCAD records indicate “no main improvement” for property at 4924 Cedar Springs Road.
- The subject site is slightly irregular in shape (approximately 77’ on the north, approximately 53’ on the south; approximately 132’ on the east; and approximately 138’ on the west) and according to the application, is 0.10 acres (or approximately 4,300 square feet) in area. The site is zoned PD 193 (MF-2).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (MF-2) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (MF-2) zoning classification.
- If the Board were to grant the variance request and impose the submitted revised site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which is a structure to be located 10’ from the site’s Mahanna Street front property line (or 5’ into this 15’ front yard setback).

BOARD OF ADJUSTMENT ACTION: AUGUST 20, 2013

APPEARING IN FAVOR: Bryan Hull, 600 Wentworth, Richardson, TX

APPEARING IN OPPOSITION: Thomas Brock, 4837 Cedar Springs, Dallas, TX

MOTION: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 123-076**, on application of Bryan Hull, hold this matter under advisement until **September 17, 2013**.

SECONDED: **Schweitzer**

AYES: 5– Moore, Schweitzer, Hounsel, Nolen, Jackson

NAYS: 0 -

MOTION PASSED: 5– 0(unanimously)

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: Frank Stich, 4224 N. Hall Street, Dallas, TX

MOTION: **Nolen**

I move that the Board of Adjustment, in Appeal No. **BDA 123-076**, on application of Bryan Hull, **deny** the front yard setback variance **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Schweitzer**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 123-086

BUILDING OFFICIAL’S REPORT: Application of Robert V. Hunt for variances to the front yard setback, lot coverage, and off-street parking regulations at 5410 Melrose Avenue. This property is more fully described as Lot 7 and part of Lot 8, Block C/1978 and is zoned R-7.5(A), which requires a 25 foot front yard setback, limits the maximum lot coverage to 45 percent, and requires a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct/maintain a structure and provide a 6 foot front yard setback, which will require a 19 foot variance to the front yard setback regulations, and to construct/maintain a structure with a lot coverage of 52 percent, which will require a 465 square foot variance to the lot coverage regulations, and to locate/maintain enclosed parking spaces 8 feet from a right-of-way line, which will require a variance of 12 feet to the off-street parking regulations.

LOCATION: 5410 Melrose Avenue

APPLICANT: Robert V. Hunt

September 17, 2013 Public Hearing Notes:

- The applicant submitted additional written documentation to the Board at the public hearing (see Attachment B).

REQUESTS:

The following appeals have been made in conjunction with constructing and maintaining a two-story single family home structure on a site that is currently developed with a one-story nonconforming duplex structure that the applicant intends to demolish:

1. Variances to the front yard setback regulations of 19' is requested as the proposed structure would be located 6' (roof eaves) from the site's two front property lines or 18' into the required 25' front yard setbacks along Melrose Avenue and Madera Avenue.
2. A variance to the lot coverage regulations of 465 square feet is requested as (according to the applicant) this request would allow up to 3,451 square feet of maximum lot coverage when 2,987 square feet is allowed now (or 45 percent) on the 6,638 square foot subject site.
3. Variances to the off-street parking regulations of 12' are requested as the proposed home would have parking spaces enclosed in the proposed garages that would be located 8' from the Melrose Avenue and Madera Avenue property/right-of-way lines or as much as 12' into the required 20' distance from these street right-of-way lines.

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION (front yard setback and maximum lot coverage):

Approval of the front yard setback and maximum lot coverage variances, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) in that it is irregularly-shaped - most lots in the zoning district are rectangular in shape, and is restricted in area with only approximately 6,600 square feet and with two front yard

setbacks - most lots in the zoning district have 7,500 square feet and one front yard setback.

STAFF RECOMMENDATION (off-street parking variances):

Denial

Rationale:

- Although the subject site is unique and different from most lots zoned R-7.5(A) in that it is irregular in shape, smaller in size than most lots in R-7.5(A) zoning, and with two front yard setbacks, the applicant has not substantiated how granting these variance requests for two garages/enclosed parking spaces (one facing each of the two bordering streets) are necessary to develop the site with a single family home with a single garage. The physical features of the lot do not appear to preclude the applicant from developing it with a single family home with a single garage that could provide the 20' distance requirement from one of the two streets bordering this site. The Sustainable Development and Construction Department Engineering Division Assistant Director recommends denial of this request commenting that the "lot appears to have room for a normal setback garage."

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: TH-3 (A) (Townhouse)
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 one-story nonconforming duplex use. The areas to the north, south, east, and west are developed with single family uses.

Zoning/BDA History:

- | | |
|---|---|
| 1. BDA 123-064, Property at 5414 Melrose Avenue (the lot immediately east of the subject site) | On June 18, 2013, the Board of Adjustment Panel A granted a variance to the front yard setback regulations of 18', variances to the side yard setback regulations of 2', and to the lot coverage regulations of 437 square feet. The board imposed the following condition: compliance with the submitted site plan is required. The case report stated that the requests were made in conjunction with constructing and maintaining a two-story single family home structure on a site that is |
|---|---|

2. BDA 067-169, Property at 2035 Cullen Avenue (three lots east of the subject site)

currently developed with a one-story single family home structure that the applicant intends to demolish.

On December 10, 2007, the Board of Adjustment Panel C granted a variance to the front yard setback regulations of 20'. The board imposed the following condition: compliance with the submitted site plan is required. The case report stated that the request was made in conjunction with constructing and maintaining a single family home in the site's Melrose Avenue 25' front yard setback on a site that was undeveloped.

Timeline:

- Jul 10, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 20, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 20, 2013: 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 August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- September 4, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

September 9, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's request for variances to the off-street parking regulations marked "Recommends that the be denied" commenting the "lot appears to have room for a normal setback garage."

GENERAL FACTS/STAFF ANALYSIS (front yard variances):

- These requests focus on constructing and maintaining a two-story single family structure, part of which would be located in the site's two 25' front yard setbacks on a property developed with a one-story nonconforming duplex structure that the applicant intends to demolish.
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The site is located at the intersection of Melrose Avenue and Madera Avenue and has two 25' front yard setbacks since continuity of the established front yard setbacks to the east of the subject site on both streets must be maintained on the subject site.
- According to DCAD records, the "main improvement" for property at 5410 Melrose Avenue being a structure built in 1926 with 1,148 square feet of living area and 1,148 square feet of total area; and no additional improvements.
- The applicant has submitted a site plan that shows a structure (roof eave) located 6' from the front property lines along Melrose Avenue and Madera Avenue or 19' into these two 25' required front yard setbacks.
- The subject site is irregular in shape and according to the application, is 6,638 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The subject site had two front yard setbacks where most lots in this zoning district have one front yard setback.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which, in this case, is a structure to be located 6' from the front property lines (roof eave) or 19' into the two 25' front yard setbacks.

GENERAL FACTS/STAFF ANALYSIS (lot coverage variance):

- This request focuses on constructing and maintaining a single family structure that would exceed the maximum 45 percent lot coverage allowed on a property developed with a duplex that the applicant intends to demolish.
- The maximum lot coverage for residential structures on lots zoned R-7.5(A) is 45 percent.
- The applicant has submitted a site plan stating that the proposed lot coverage is 52 percent or 3,451 square feet in area, and that the maximum lot coverage allowed on this site is 6,638 square foot lot is 2,987.1 square feet.
- The subject site is irregular in shape and according to the application, is 6,638 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The subject site had two front yard setbacks where most lots in this zoning district have one front yard setback.
- DCAD records indicate the “main improvement” for property at 5410 Melrose Avenue being a structure built in 1926 with 1,148 square feet of living area and 1,148 square feet of total area; and no additional improvements.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the maximum lot coverage regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure exceeding the maximum 45 percent lot coverage requirement would be limited to what is shown on this document– which in this case is a structure with 3,451 square feet or 465 square feet beyond the 2,987 square feet permitted on the 6,638 square foot subject site.

GENERAL FACTS/STAFF ANALYSIS (off-street parking variances):

- These requests focus on enclosing parking spaces with a garage door in the proposed garages attached to the proposed single family home, where the parking spaces entered from Melrose Avenue and Madera Avenue would be located less than the required 20’ distance from the street right-of-way line.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.

- The submitted floor plan denotes the location of enclosed parking spaces in the proposed structure 8' from the street right-of-way lines or approximately 20' – 21' from the projected pavement lines.
- The subject site is irregular in shape and according to the application, is 6,638 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The subject site has two front yard setbacks where most lots in this zoning district have one front yard setback.
- DCAD records indicate the “main improvement” for property at 5410 Melrose Avenue being a structure built in 1926 with 1,148 square feet of living area and 1,148 square feet of total area; and no additional improvements.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding these requests marked “recommends that this be denied” commenting the “lot appears to have room for a normal setback garage.”
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests of 12', staff recommends imposing the following conditions:
 1. Compliance with the submitted site plan is required.
 2. Automatic garage doors must be installed and maintained in working order at all times.
 3. At no time may the areas in front of the garages be utilized for parking of vehicles.

(These conditions are imposed to help assure that the variance will not be contrary to the public interest).

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 17, 2013

APPEARING IN FAVOR: Robert Hunt, 5811 Gaston Avenue, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 123-076**, on application of Robert V. Hunt, hold this matter under advisement until **October 22, 2013**.

SECONDED: **Nolen**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

MOTION: **Schweitzer**

I move to adjourn this meeting.

SECONDED: **Nolen**

AYES: 4– Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4 – 0(unanimously)

1:27 P. M.: - Board Meeting adjourned for **September 17, 2013**.

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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