

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, 6ES  
TUESDAY, OCTOBER 22, 2013**

MEMBERS PRESENT AT BRIEFING: Jordan Schweitzer, regular member, Scott Housel, regular member, Clint Nolen, regular member, Larry French, regular member and Scott Jackson, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

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

MEMBERS PRESENT AT HEARING: Jordan Schweitzer, regular member, Scott Housel, regular member, Clint Nolen, regular member, Larry French, regular member and Scott Jackson, alternate member

MEMBERS ABSENT FROM HEARING: No one

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

**11:03 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 22, 2013** docket.

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**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.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A **September 17, 2013** public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**MOTION: Hounsel**

I move **approval** of the Tuesday, **September 17, 2013** public hearing minutes as amended as amended.

**SECONDED: Nolen**

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**MISCELLANEOUS ITEM NO. 2**

Consideration and Approval of the Board of Adjustment Panel A's 2014 Public Hearing Calendar.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**MOTION: Nolen**

I move **approval** of the the Board of Adjustment Panel A's 2014 Public Hearing Calendar.

**SECONDED: Hounsel**

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**MISCELLANEOUS ITEM NO. 3**

To reimburse the filing fee submitted in conjunction with requests for special exceptions to the fence height, visual obstruction, and off-street parking regulations – BDA 123-085.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:** Fran Lobpries, 4410 Leland Ave., Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** Jackson

I move **approval** to reimburse the filing fee submitted in conjunction with requests for special exceptions to the fence height, visual obstruction, and off-street parking regulations – BDA 123-085.

**SECONDED:** Nolen

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**FILE NUMBER:** BDA 123-095

**BUILDING OFFICIAL’S REPORT:** Application of Michael Nichols, represented by Margaret Hamilton, for a special exception to the fence height regulations at 6315 Walnut Hill Lane. This property is more fully described as Lot 7, Block 2/5487, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 6315 Walnut Hill Lane

**APPLICANT:** Michael Nichols  
Represented by Margaret Hamilton

**REQUEST:**

A special exception to the fence height regulations of 4’ is requested in conjunction with constructing and maintaining an 8’ high board-on-board fence in the site’s Stichter Avenue 30’ front yard setback on a site that is currently developed with a church (Preston Hollow United Methodist Church).

**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-10(A) (Single family district 10,000 square feet)  
North: R-10(A) (Single family district 10,000 square feet)  
South: R-10(A) (Single family district 10,000 square feet)  
East: PD 664 (Planned Development)  
West: R-10(A) (Single family district 10,000 square feet)

**Land Use:**

The subject site is developed with a church (Preston Hollow United Methodist Church). The areas to the north, south, and west are developed with single family uses; and the area to the east is developed with a school (Preston Hollow Elementary 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.

**Timeline:**

July 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.

September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 19, 2013: The Board Administrator contacted the applicant’s representative and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11<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.”

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public

hearings. Review team members in attendance included: 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 review comment sheets were submitted in conjunction with this application.

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

- This request focuses on constructing and maintaining an 8' high board-on-board fence in the site's Stichter Avenue 30' front yard setback on a site that is currently developed with a church (Preston Hollow United Methodist Church).
- 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 northwest corner of Walnut Hill Lane and Tibbs Street. The site has three 30' front yard setbacks where the focus of the applicant's request in this application is only to construct and maintain a fence higher than 4' in the site's front yard setback on Stichter Avenue.
- The applicant has submitted a site plan and an elevation of the proposal in the front yard setback with notations indicating that the board-on-board fence reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
  - The proposal in the Stichter Avenue front yard setback is represented as being approximately 190' in length parallel to Stichter Avenue and approximately 25' in length on the east side of the site in this front yard setback.
  - The proposal is represented as being located on the property line or about 17' from the pavement line.
- The proposal is located across from three single family homes, none that have fences in their front yards.
- 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 October 14, 2013, no letters had been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' 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 front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:** Margaret Hamilton, 6315 Walnut Hill Lane, Dallas, TX

**APPEARING IN OPPOSITION:** No on

**MOTION: Jackson**

I move that the Board of Adjustment, in Appeal No. **BDA 123-095**, on application of Michael Nichols, **grant** the request to construct and maintain an 8 foot high fence in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Nolen**

**AYES:** 5—Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**FILE NUMBER:** BDA 123-096

**BUILDING OFFICIAL'S REPORT:** Application of Alvin Keal, represented by Danny Sipes, for a special exception to the off-street parking regulations at 5444 La Sierra Drive (aka: 5442 La Sierra Drive). This property is more fully described as Lot 24A, Block B/5461 and is zoned NO(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a medical clinic or ambulatory surgical center use and provide 27 of the required 34 parking spaces, which will require a special exception to the off-street parking regulations of 7 spaces.

**LOCATION:** 5444 La Sierra Drive (aka: 5442 La Sierra Drive)

**APPLICANT:** Alvin Keal  
Represented by Danny Sipes

**REQUEST:**

A special exception to the off-street parking regulations of 7 spaces is made in conjunction with leasing and maintaining an existing approximately 6,800 square foot vacant structure with medical clinic or ambulatory surgical center use and providing 27 (or 79 percent) of the 34 required off-street parking spaces.

**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:**

Approval, subject to the following condition:

- The special exception of 7 spaces shall automatically and immediately terminate if and when the medical clinic or ambulatory surgical center use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant’s request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: NO(A) (Neighborhood Office)  
North: GO(A) (General Office)  
South: NO(A) (Neighborhood Office)  
East: NO(A) (Neighborhood Office)  
West: GO(A) (General Office)

**Land Use:**

The subject site is developed with an existing vacant structure. The areas to the north, east, south, and west are developed with office 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 30, 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.

September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 19, 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 October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11<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.”

- October 3, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- October 4, 2013: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: 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.
- October 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

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

- This request focuses on leasing and maintaining an existing approximately 6,800 square foot vacant structure with medical clinic or ambulatory surgical center use and providing 27 (or 79 percent) of the 34 required off-street parking spaces.
- The applicant has stated that the request is made in conjunction with leasing the current vacant structure with medical clinic use – a use with a higher parking requirement than what was on the site prior to the structure becoming vacant – office use.
- The Dallas Development Code requires the following off-street parking requirement:
  - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area. (The applicant has stated that the previous use on the site was office which requires 1 space per 333 square feet of floor area).
 The applicant proposes to provide 27 (or 79 percent) of the required 34 off-street parking spaces in conjunction with leasing the vacant approximately 6,800 square foot structure on the site with medical clinic use.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant's request.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the proposed medical clinic or ambulatory surgical center use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 7 spaces (or a 21 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 7 spaces shall automatically and immediately terminate if and when the

medical clinic or ambulatory surgical center use is changed or discontinued, the applicant would be allowed to lease/maintain the site with this specific use with the specified square footages, and provide 27 of the 34 code required off-street parking spaces.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:**

**APPEARING IN OPPOSITION:** No on

**MOTION:** French

I move that the Board of Adjustment grant application **BDA 123-096** 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:

- The special exception of 7 off street parking spaces automatically and immediately terminates if and when the medical clinic or ambulatory surgical center use is changed or discontinued.

**SECONDED:** Jackson

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**FILE NUMBER:** BDA 123-103

**BUILDING OFFICIAL’S REPORT:** Application of Jim Lob for a special exception to the single family use regulations at 7015 Tokalon Drive. This property is more fully described as Lot 17A, Block H/2836 and is zoned R-7.5(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

**LOCATION:** 7015 Tokalon Drive

**APPLICANT:** Jim Lob

**REQUEST:**

A special exception to the single family use development standard regulations is requested in conjunction with constructing and maintaining a one-story additional dwelling unit structure on a site currently developed with a one-story dwelling unit/single family home structure and a one-story accessory structure that the applicant intends to demolish.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:**

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**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 use – a main dwelling unit structure and an accessory structure that the applicant intends to demolish. 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.

**Timeline:**

August 27, 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.

September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 19, 2013: The Board Administrator contacted the applicant's representative and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11<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."

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: 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 review comment sheets were submitted in conjunction with this application.

October 9, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the applicant that it was noted during a review of appeals on the upcoming October hearing docket, that the site plan he had submitted with his appeal did not match the submitted certified subdivision plat of the subject property - that the submitted site plan shows a rectangular property measuring 75'x248' while there is however a 5'x65' "notch" cut out of the lot at the rear northeast corner and recorded during the replat of Lot 16A and Lot 17A. Lot 17A is 75' wide at the front but only 70' wide at the rear. The Building Inspection Senior Plans Examiner/Development Code Specialist requested that the applicant submit a revised site plan to him and the Board Administrator prior to the October 22<sup>nd</sup> public hearing.

October 9, 2013: The Board Administrator contacted the applicant to discuss the discovery made by the Building Inspection Senior Plans Examiner/Development Code Specialist regarding the applicant's

submitted site plan. The Board Administrator informed the applicant that any revised site plan that he would submit to the City prior to the October 22<sup>nd</sup> hearing should convey a proposed structure that meets all applicable zoning code development standards (other than its function/use or to the floor plan making it an additional dwelling unit on a single family-zoned site) since no application has been made for variance to setbacks or any other zoning code provision.

October 10, 2013: The applicant emailed the Board Administrator that he could represent that the structure on any revised site plan would comply with all zoning code development standards, whereby if the board were to deny the special exception request to the board, the structure could be constructed as shown on a revised site plan with a modification to a related floor plan – modifications to a floor plan where the City would no longer deem it a dwelling unit.

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

- This request focuses on constructing and maintaining a one-story additional dwelling unit structure on a site currently being additionally developed with a one-story dwelling unit/single family home structure and a one-story accessory structure.
- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- The site is zoned R-7.5(A) where the Dallas Development Code permits one dwelling unit per lot.
- A site plan has been submitted denoting the locations of two building footprints, the larger of the two denoted as “existing house” and the smaller of the two denoted as “new construction” - a structure that has been deemed by Building Inspection given what is denoted on a submitted floor plan as an additional dwelling unit. The site plan represents the sizes and locations of the two building footprints relative to the entire lot.
- The applicant has been informed of a discovery made by staff that that the site plan submitted with this application does not match the submitted certified subdivision plat of the subject property - that the submitted site plan shows a rectangular property measuring 75’x248’ while there is however a 5’x65’ “notch” cut out of the lot at the rear northeast corner and recorded during the replat of Lot 16A and Lot 17A. Lot 17A is 75’ wide at the front but only 70’ wide at the rear. The Building Inspection Senior Plans Examiner/Development Code Specialist requested that the applicant submit a revised site plan to him and the Board Administrator prior to the October 22<sup>nd</sup> public hearing.

- Elevations have been submitted of the structure denoted on the site plan as “new construction.” It is represented to be one-story in height.
- A floor plan has been submitted of the structure denoted on the site plan as “new construction.” The floor plan shows a family room (with what appears to be an area with oven, refrigerator, a foyer, a bath, and a bedroom).
- DCAD records indicate that the property at 7015 Tokalon Drive has the following improvements:
  - “main improvement:” a structure built in 1987 with 4,251 square feet of living and total area; and
  - “additional improvement:” a 660 square foot cabana and a 621 square foot attached garage.
- Building Inspection staff has reviewed the submitted floor plan of the “new construction” structure and deemed it to be a dwelling unit - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- This request appears to center on the function of what is proposed to be located inside the proposed “new construction” structure on the site. The applicant stated in September 19<sup>th</sup> and October 10<sup>th</sup> emails to the Board Administrator that he can represent that if the board were to deny this request, the structure could be constructed and maintained with merely modifications to the floor plan since the proposed structure as it is represented on his submitted site plan or revised site plan does comply with the applicable zoning code development standards since no application has been made for variance to setbacks or any other zoning code provision.
- It appears that if certain notations were removed from the floor plan of the structure located towards the rear of the property (i.e. notations such as oven, ref., d/w, etc. located in a room labeled as “family rm.”), the structure then could be built by right as shown on a revised site plan if the structure were located no closer than on the eastern side property line; and that if these notations are retained, the city considers the structure a dwelling unit and a Board of Adjustment hearing is required.
- As of October 14, 2014, no letters had been submitted to staff in support or in opposition to the application.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve the request for a special exception to the single family regulations, the Board may want to impose a condition that the applicant comply with a site plan, floor plan, and elevation to ensure that the special exception will not adversely affect neighboring properties. But note that granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements including setback and lot coverage requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:** Jim Lob, 7015 Tokalon, Dallas, TX

**APPEARING IN OPPOSITION:** Bonnie Chappellear, 7019 Toakalon Dr., Dallas, TX

**MOTION:** French

I move that the Board of Adjustment, in Appeal No. **BDA 123-103**, on application of Jim Lob, **grant** the special exception to the single family use regulations to maintain an additional dwelling, because our evaluation of the property and the testimony shows that the additional dwelling unit will not be used as rental accommodations or adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The property must be deed restricted to prohibit the additional dwelling unit from being used as rental accommodations.

**SECONDED:** Nolen

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**FILE NUMBER:** BDA 123-105

**BUILDING OFFICIAL’S REPORT:** Application of Peter Kavanagh for a special exception to the landscape regulations at 3509 Oak Lawn Avenue. This property is more fully described as part of Lots 1, 2, & 3, Block Q/1318, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 3509 Oak Lawn Avenue

**APPLICANT:** Peter Kavanagh

**REQUEST:**

A special exception to the landscape regulations is requested in conjunction with constructing and maintaining an approximately 150 square foot elevator structure and an approximately 200 square foot exterior stair structure on a site developed with a two-story approximately 10,500 square foot office/retail structure which according to DCAD was built in 1929, 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:**

Approval

Rationale:

- The applicant has substantiated how granting this request would not compromise the spirit and intent of the landscaping requirements of PD 193. Although the applicant proposes no landscaping in conjunction with this request, the special exception request in this case is made to construct and maintain minimal structures (elevator and staircase) to an existing structure on the site – a structure to be retained and built in the 20's more than 60 years prior to the creation of the landscape provisions to which the applicant is seeking exception from. There does not appear to be any feasible areas for landscaping on the site given applicant's plans to retain the existing structure on it.
- Any increase to 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 on the site would require the owner to fully comply with the landscape regulations or if not, to re-apply for another special exception to these regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (GR) (Planned Development District, General Retail)  
North: PD 193 (MF) (Planned Development District, Multifamily)  
South: PD 193 (GR) (Planned Development District, General Retail)  
East: PD 193 (GR) (Planned Development District, General Retail)  
West: PD 193 (GR) (Planned Development District, General Retail)

**Land Use:**

The subject site is developed with an approximately 10,500 square foot office/retail use/structure that according to DCAD was constructed in 1929. The area to the north is developed with multifamily use; the areas to the east and south are developed with a mix of office and retail uses; and the area to the west is a vacant retail lot.

**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:**

- August 28, 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.
- September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- September 19, 2013: The Board Administrator contacted the applicant's representative and shared the following information via email:
- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11<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."
- October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: 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.
- October 9, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

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

- This request focuses on constructing and maintaining an approximately 150 square foot elevator structure and an approximately 200 square foot exterior stair structure on a site developed with a two-story approximately 10,500 square foot office/retail structure which according to DCAD was built in 1929, 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.

- DCAD records indicate the improvement for property at 3509 Oak Lawn Avenue is a “retail strip” with 10,500 square feet constructed in 1929.
- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request is triggered by a proposed building addition with increase of floor area ratio, and that the proposed plan does not identify any landscape improvements.
- The submitted site plan is deficient in the following ways:
  1. Designated landscape site areas – 10 percent of the lot; 60 percent of the required front yard with 12 percent landscape site area in the front yard with general planting, and 6 percent of general with special planting.
  2. Sidewalks – 6’ wide required between 5’ – 12’ from back of curb.
  3. Trees – 1 tree per 25’ of frontage planted between 2.5’ – 5’ from back of curb.
- The Chief Arborists listed several factors for consideration on this request: the floor area increase is in the rear of the existing building to improved access to the upper floor of the building; and required parking is screened from the street by the existing building so off-street parking and screening regulations are not applicable.
- The Chief Arborist makes no recommendation to the Board since the proposal is for a full exemption to PD 193 landscape requirements and since the proposed plan does not present any landscaping for discussion.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a site plan has been submitted that is deficient in meeting the sidewalk, tree, and landscape site area/general planting area requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of the section of the ordinance (Section 51P-193-126: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request, the site would be granted exception from full compliance to sidewalk, tree, and landscape site area/general planting area requirements of the landscape requirements of the Oak Lawn PD 193 landscape ordinance. But any increase to 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 on the site would require the owner to fully comply with the landscape regulations or if not, to re-apply for another special exception to these regulations.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:**

**APPEARING IN OPPOSITION:** No on

**MOTION:** French

I move that the Board of Adjustment grant application **BDA 123-105** 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.

**SECONDED: Jackson**

**AYES: 5–Schweitzer, Hounsel, Nolen, French, Jackson**

**NAYS: 0 -**

**MOTION PASSED: 5 – 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

**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 a community center use 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 community center use is changed or discontinued.

Rationale:

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
<u>North:</u>	PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
<u>South:</u>	PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
<u>East:</u>	PD 595 (R-5(A)(SUP 37) (Planned Development, Single family 5,000 square feet)
<u>West:</u>	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. Miscellaneous Item #2, BDA 123-085, Property at 4402 Leland Avenue ( the subject site)      On October 22, 2013, the Board of Adjustment Panel A will consider reimbursing the filing fee made in conjunction with this application.
2. 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 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 6<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 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.”

September 17, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The Board Administrator circulated a September 12<sup>th</sup> 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. The Board held the request under advisement until October 22, 2013.

September 18, 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; October 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 11<sup>th</sup> 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.

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: 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 were submitted in conjunction with this application.

October 9, 2013: The applicant submitted a letter (and related information) requesting reimbursement of the filing fee submitted in conjunction with this application.

**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 1/2" 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 1/2".
- 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 the 8,680 square foot community center use 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 applicant is not requesting a special exception for the off-street parking requirement for the child care facility.
- 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 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 community service center use is changed or discontinued, the applicant would be allowed to lease/maintain the site with this specific use at the specified square footage 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: OCTOBER 22, 2013**

APPEARING IN FAVOR: Fran Lobpries, 4410 Leland Ave., Dallas, TX

APPEARING IN OPPOSITION: No on

**MOTION #1: French**

I move that the Board of Adjustment, in Appeal No. **BDA 123-085**, on application of Fran Lobpries, **grant** the request to construct and maintain a 7 foot high fence in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Jackson**

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

**MOTION #2: French**

I move that the Board of Adjustment, in Appeal No. **BDA 123-085**, on application of Fran Lobpries, **grant** the requested special exception of 10 spaces to the off-street parking regulations, because our evaluation of the property and the testimony shows 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. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 10 spaces shall automatically and immediately terminate if and when the community service center use is changed or discontinued.

**SECONDED: Jackson**

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

**MOTION #3: French**

I move that the Board of Adjustment, in Appeal No. **BDA 123-085**, on application of Fran Lobpries, **grant** the request to maintain items in the visibility triangle as a special exception to the visual obstruction regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that the special exception would not constitute a traffic hazard. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Jackson**

**AYES:** 5–Schweitzer, Hounsel, Nolen, French, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0(unanimously)

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**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

**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. A variance to the off-street parking regulations of 5' 6" is requested as the proposed home would have parking spaces enclosed in a proposed garage that would be located 14' 6" from the Melrose Avenue property/right-of-way line or as much as 5' 6" into the required 20' distance from this street right-of-way. (Note that the applicant's original request was for variances to the off-street parking regulations of 12' as the proposed home was proposed to have parking spaces enclosed in the proposed garages that would have been 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 revised 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 variance):**

Approval, subject to the following conditions:

1. Compliance with the submitted revised 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 area in front of the garage be utilized for parking of vehicles.

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.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to revised submittal.

**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 currently developed with a one-story single family home structure that the applicant intends to demolish.
2. BDA 067-169, Property at 2035 Cullen Avenue (three lots east of the subject site) 

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 6<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 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 this be denied" commenting the "lot appears to have room for a normal setback garage."
- September 17, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The applicant submitted additional written documentation to the Board at this public hearing (see Attachment B). The Board held the request under advisement until October 22, 2013.
- September 17, 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 October 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 11<sup>th</sup> 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.
- September 26, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application and beyond what was submitted at the September public hearing (see Attachment C). The additional documentation includes a revised site plan of the proposal and a document stating "I am not proposing any changes to other setbacks or lot coverage from the initial request."
- October 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a revised review comment sheet regarding the applicant's request for variance to

the off-street parking regulations marked “Has no objections to revised submittal.”

**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 revised 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 revised 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 variance):**

- The original requests focused 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. However, the applicant revised his request after the September 17<sup>th</sup> public hearing to where only one variance to the off-street parking regulations is made in order to enclose parking spaces in a garage located 14’ 6” from Melrose Avenue or 5’ 6” into the required 20’ distance from the Melrose Avenue property line/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 originally submitted floor plan denoted 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 revised submitted site plan and floor plan denotes the location of enclosed parking spaces in the proposed structure 14' 6" from the Melrose Avenue street right-of-way line or approximately 26.5' 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.
- In September, the Sustainable Development and Construction Department Engineering Division Assistant Director had submitted a review comment sheet regarding the original requests marked "recommends that this be denied" commenting the "lot appears to have room for a normal setback garage."
- On October 10, 2013, the Sustainable Development and Construction Department Engineering Division Assistant Director had submitted a revised review comment sheet regarding the revised request marked "has no objections to revised submittal."
- The applicant has the burden of proof in establishing the following:
  - That granting the variance 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 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 of 5' 6", staff recommends imposing the following conditions:
  1. Compliance with the submitted revised 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 area in front of the garage 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)

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

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

APPEARING IN OPPOSITION: No one

MOTION: **Nolen**

I move that the Board of Adjustment, in Appeal No. **BDA 123-086**, on application of Robert Hunt, **grant** a 19 foot variance to the front yard setback regulations, a 465 square foot variance to the lot coverage regulations and a 12 foot variance to the enclosed parking space setback regulations, 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 result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.
- Automatic garage doors must be installed and maintained in working order at all times
- At no time may the areas in front of the garage be used for parking of vehicles.

SECONDED: **French**

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

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

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**FILE NUMBER:** BDA 123-100

**BUILDING OFFICIAL'S REPORT:** Application of Anthony R. Page, represented by Timothy M. Hoch, to appeal the decision of the administrative official at 3100 Carlisle Street. This property is more fully described as Lot 1A, Block 16/966 and is zoned PD-193 (O-2), which allows the building official to issue a temporary certificate of occupancy if the building official determines that the use meets the requirements of the Dallas Development Code and may grant one or more extensions of the temporary certificate of occupancy. The applicant proposes to appeal the decision of an administrative official to grant an extension of a temporary certificate of occupancy.

**LOCATION:** 3100 Carlisle Street

**APPLICANT:** Anthony R. Page  
Represented by Timothy M. Hoch

**October 22, 2013 Public Hearing Notes:**

- The applicant submitted additional written documentation to the Board at the public hearing.

**REQUEST:**

An appeal has been made requesting that the Board of Adjustment reverse/overturn the Building Official's August 12, 2013 decision "to extend the expiration date of the Temporary Certificate of Occupancy relating to Unit Floors 1, 2, and 3 and Parking Garage B1 thru 4<sup>th</sup> Floor."

**STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:**

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

**BACKGROUND INFORMATION:**

**Zoning:**

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

### **Land Use:**

The subject site is developed with a multifamily structure. The areas to the north, east, south, and west are developed with a mix of land 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:**

August 19, 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.

September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 18, 2013: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the October 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 24, 2013: The applicant forwarded additional information on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

September 30, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report on this application to the Board Administrator (see Attachment B).

October 4, 2013: The Assistant City Attorney to the Board forwarded a code provision to the Board Administrator. The provision was as follows:

306.9 Temporary certificate of occupancy. A temporary certificate of occupancy may be is-sued by the building official for the temporary use or occupancy of a portion of a structure. The building official shall set a time period during which the temporary certificate of occupancy is valid. When the temporary certificate of occupancy expires, the holder must obtain a certificate of occupancy authorizing the use or occupancy or cease the use or occupancy. The building official may grant one or more extensions of the temporary certificate of occupancy for periods not to exceed 30 days. If a request for extension is made by the applicant or the applicant's agent, the request must be in writing and made within the time period sought to be extended.

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: 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 review comment sheets were submitted in conjunction with this application.

October 8, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an updated process list from the City of Dallas data base to the Board Administrator regarding this application - an update showing a TCO extension completed by Tralan Mathis on September 13, 2013 (see Attachment C).

**GENERAL FACTS/STAFF ANALYSIS:**

- A copy of a printout of processes related to "Job 071536802-001 (1306124001)" including a line item marked with an asterisk "Assigned to: TCO Extension and Fees; Tralan Mathis; Status: Complete; Outcome: Collected; Completed: August 12, 2013" is included in this case report.

The board shall have all the powers of the administrative official on the action appealed from. The board may in whole or in part affirm, reverse, or amend the decision of the official.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2013**

**APPEARING IN FAVOR:** Tim Hoch, 5616 Malvey Ave., Ft. Worth, TX  
Anthony Page, 3210 Carlisle St., #1, Dallas, TX

**APPEARING IN OPPOSITION:** Dallas Cothrum, 900 Jackson St., Dallas, TX

**APPEARING FOR THE CITY:** Melissa Miles, 1500 Marilla St., Dallas, TX  
Rahul Sharma, 320 E. Jefferson, Dallas, TX

MOTION #1: **Hounsel**

I move that the Board of Adjustment suspend the rules and accept the evidence that is being presented to us today.

SECONDED: **Nolen**

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

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

MOTION #2: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 123-100**, on application of Anthony R. Page, after having fully reviewed the decision of the administrative official, and having evaluated the evidence and heard all the testimony and facts, I move that the Board of Adjustment **affirm** the decision of the administrative official and **deny** the relief requested by the applicant **without prejudice**.

SECONDED: **Jackson**

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

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

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MOTION: **Schweitzer**

I move to adjourn this meeting.

SECONDED: **Nolen**

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

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

**3:31 P. M.:** - Board Meeting adjourned for **October 22, 2013**.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
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.