

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, FEBRUARY 13, 2008**

MEMBERS PRESENT AT BRIEFING: Samuel Gillespie, Panel Vice Chair, Marla Beikman, regular member, Christian Chernock, regular member and H.B. Sorrells, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Samuel Gillespie, Panel Vice Chair, Marla Beikman, regular member, Christian Chernock, regular member and H.B. Sorrells, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Casey Burgess, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Donnie Moore, Chief Planner, Kyra Blackston, Senior Planner, Chau Nguyen, Traffic Engineer, Phil Erwin, Chief Arborist and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Casey Burgess, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Donnie Moore, Chief Planner, Kyra Blackston, Senior Planner, Chau Nguyen, Traffic Engineer, Phil Erwin, Chief Arborist and Trena Law, Board Secretary

10:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 13, 2008 docket.**

1:10 P.M.

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B January 16, 2008 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

MOTION: Beikman

I move approval of the Wednesday, January 16, 2008 Board of Adjustment Public Hearing minutes.

SECONDED: Chernock

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4 – 0 (Unanimously)

FILE NUMBER: BDA 078-013

BUILDING OFFICIAL'S REPORT:

Application of David Benners Architecture, represented by David Benners, for a variance to the front yard setback regulations and for a variance to the side yard setback regulations at 6602 Avalon Avenue. This property is more fully described as Lot 2 in City Block L/2797 and is zoned CD 2 which requires a 60 foot front yard setback and a 6 foot side yard setback. The applicant proposes to construct and maintain an addition and provide a 23 foot front yard setback which will require a variance of 37 feet to the front yard setback regulations, and provide a 0 foot side yard setback which will require a variance of 6 feet to the side yard setback regulations.

LOCATION: 6602 Avalon Avenue

**APPLICANT: David Benners Architecture
Represented by David Benners**

REQUESTS:

- The following appeals have been made in conjunction with adding 2nd floor master bathroom/closet/exercise room atop an approximately 560 square foot garage/single family home “varied” by the Board of Adjustment in 2005:
 1. a variance to the front yard regulations of 37’; and

2. a variance to the side yard regulations of 6'.

STAFF RECOMMENDATION:

Approval of the front and side yard variances, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The site is different from other parcels of land in the CD No. 2 zoning district in that it has two 60' front yard setbacks (one on its western boundary along Cambria Boulevard, another on its northern boundary along Avalon Avenue) that leave an area of only about 60' x 6' (or 360 square feet) of developable space on the approximately 9,600 square foot site. (The majority of the site is developed with a nonconforming single family structure built in the 1940's).
- Granting the variance requests do not appear to be contrary to the public interest since the requests are only about adding vertically to a garage addition structure that was "varied" to the front and side yard setbacks by the Board of Adjustment in 2005.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- Structures on lots zoned CD No. 2 are required to provide a minimum front yard setback of 60' and to provide a minimum side yard setback of 6'. The site (located at the southeast corner of Avalon Avenue and Cambria Boulevard) has two 60' front yard setbacks: one along Avalon Avenue (the shorter of the lot's two frontages), and the other along Cambria Boulevard (the longer of the two frontages but a front yard setback nonetheless in order to maintain continuity of the established setback of one home directly south that fronts westward onto Cambria Boulevard), and two 6' side yard setbacks along the south and east sides of the site.

A scaled site plan has been submitted that shows that the existing home (part of which was built in the 1940's and part of which was added upon and "varied" by the Board of Adjustment in 2005) is located 23' from the site's Cambria Boulevard front

property line (or 37' into the 60' Cambria Boulevard front yard setback) and on the site's southern side property line adjacent to a 15' wide alley (or 6' into the 6' side yard setback).

The front and side yard variance requests are made in order to add vertically upon an existing building footprint/one-story garage that was "varied" by the Board of Adjustment Panel B in November of 2005: BDA056-021. The variances are not requested to come further into the required front and side yard setbacks than what has been previously varied on the subject site.

- The applicant has indicated that he only seeks variance for the addition of the proposed 2nd floor atop the garage and not to remedy any portion of the original structure built in the 1940's. (The house was built decades ago and appears to have "nonconforming structure" status which allows the owner to replace the house back in the same footprint in the front yard setback if a natural cause would destroy or damage the house).
- According to DCAD records, the site is developed with the following:
 - a structure built in 1941 that is in "good" condition with 3,280 square feet of living area; and
 - a 440 square foot attached garage.
- According to the submitted site plan, the proposed 560 square foot addition to be added atop the garage would be located entirely in the Cambria Boulevard 60 foot front yard setback.
- According to the submitted site plan, the area of the proposed addition in the 6' side yard setback is approximately 28.5' x 6' (or 171 square feet in area).
- The subject site is zoned CD No. 2, is flat, irregular in shape (82' on the north, 125' on the east, 76' on the south, and 115' on the west), and approximately 9,600 square feet in area.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a letter that provides additional details about the requests;
 - photos of the subject site; and
 - a graphic/site plan that shows the amount of buildable lot based on current setbacks.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 2 (Conservation District)
North: CD No. 2 (Conservation District)
South: CD No. 2 (Conservation District)
East: CD No. 2 (Conservation District)
West: CD No. 2 (Conservation District)

Land Use:

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

Zoning/BDA History:

1. BDA 056-021, 6602 Avalon Avenue, the subject site

On November 16, 2005, the Board of Adjustment Panel B granted requests for variances to the front yard setback regulations of 37' and to the side yard setback regulations of 6'. The board imposed the following conditions with these requests: compliance with the submitted site plan is required. The case report stated that the requests were made to construct and maintain an approximately 560 square foot garage on an existing single family home.

Timeline:

- Dec. 18, 2007 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Jan. 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."
- Jan. 17, 2008: The Board Administrator contacted the applicant's representative and shared the following information by phone and email:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the January 28th deadline to submit additional evidence for staff to factor into their analysis;
 - the February 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February

public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

January 30, 2008 The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- These variance requests are made merely to add a second floor addition on a garage addition that was “varied” by the Board of Adjustment in 2005. The proposed second floor addition would not encroach further into the Cambria Boulevard front yard setback or the southern side yard setback than what was previously varied other than vertically.
- The subject site is zoned CD No. 2, is flat, irregular in shape (82’ on the north, 125’ on the east, 76’ on the south, and 115’ on the west), and approximately 9,600 square feet in area. The site has two 60’ front yard setbacks and two 6’ side yard setbacks.
- The existing structure is located in the two 60’ front yard setbacks, however the applicant only requests (as he did in 2005) that the Board consider variances to the 60’ Cambria Boulevard front yard setback and the 6’ side yard setback along the southern border of the site for the proposed 2nd floor master bathroom/closet/exercise room addition.
- The applicant has submitted a graphic/site plan that shows the remainder of buildable lot on the site based on current setback guidelines (two 60’ front yard setbacks and two 6’ side yard setbacks). The remaining buildable lot area on the approximately 9,600 square foot site appears to be about 60’ x 6’ (or 360 square feet).
- According to calculations taken from the submitted site plan, the area in the Cambria Boulevard front yard setback is about 28.5’ long and 19.5’ wide (or 560 square feet in area).
- According to calculations taken from the submitted site plan, the area in the southern side yard setback is about 28.5’ long and 6’ wide (or 170 square feet in area).
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front and side yard setback regulations requested to construct and maintain an addition atop an existing “varied” structure 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 to the front and side yard setback regulations are necessary to permit development of the subject site (a site that is flat, irregular in shape, about

9,600 square feet in area with two 60' front yard setbacks, and a site developed with a single family home built in the 1940's) 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 CD No. 2 zoning classification.

- The variances to the front and side yard setback regulations to construct an addition atop an existing "varied" structure 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 not permitted by this chapter to other parcels of land in districts with the same CD No. 2 zoning classification.
- If the Board were to grant the front and side yard variance requests, subject to the submitted site plan, the site could be retained with a nonconforming single family home structure that has about 3,300 square feet of living area with an approximately 560 square foot master bathroom/closet/exercise room addition atop a recently added garage addition "varied" by the Board of Adjustment in 2005.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Chernock

I move that the Board of Adjustment grant application **BDA 078-013** 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 condition be imposed to further the purpose and intent of the Dallas Development Code.

- Compliance with the submitted site plan is required.

SECONDED: Beikman

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4 – 0 (Unanimously)

FILE NUMBER: BDA 078-026

BUILDING OFFICIAL'S REPORT:

Application of The Plaza at Turtle Creek Residents Association, Inc., represented by Roger Albright, for a special exception to the front yard setback regulations at 2828 Hood Street. This property is more fully described as Lot 1H in City Block 11/1017 and is zoned PD-193 (MF-3-D) which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a porte-cochere and provide a 1 foot front yard setback which will require a special exception of 24 feet.

LOCATION: 2828 Hood Street

APPLICANT: The Plaza at Turtle Creek Residents Association, Inc.,
Represented by Roger Albright

REQUEST:

- A special exception to the front yard setback regulations of 24' is requested in conjunction with replacing an existing canopy that was "special excepted" by the Board of Adjustment in 2005 with a roof on an approximately 900 square foot porte cochere that is attached to a multi-story residential building (The Plaza at Turtle Creek).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the front yard requirements for a porte cochere since the basis for this type of appeal is somewhat based upon whether the board finds that the structure will not adversely affect neighboring property.

STANDARD FOR A SPECIAL EXCEPTION TO THE FRONT YARD REQUIREMENTS FOR A PORTE-COCHERE, COVERED WALKWAY, OR CANOPY:

The board of adjustment may allow a special exception to the front yard requirements of Section 51P-193.125 to permit the erection of a permanently constructed porte-cochere, covered walkway, or canopy in the multiple-family, MH, A, office, commercial, central area, and industrial subdistricts if the structure is rectilinear in shape and does not exceed 25 feet in width at the building line, and if the board finds that the structure will not adversely affect neighboring property.

GENERAL FACTS:

- A 25'-front yard setback is required in the PD No. 193 (MF-3 Subdistrict) zoning district.

A site plan has been submitted that indicates that the porte cochere is located 1' from the front property line. (For purposes of this request, Building Inspection has stated that the 25'-front yard setback line (dictated by the underlying zoning district) is also the site's building line).

The submitted site plan indicates that the existing porte cochere is in compliance with two characteristics that are specified in the applicable special exception provision of PD No. 193:

1. The existing porte cochere is rectilinear in shape; and
2. The existing porte cochere does not exceed 25 feet in width at the building line. (The structure is 20' 1" wide at the building line, and 38' 1" wide in the area between the building/setback line and the front property line).

The submitted elevation indicates a porte cochere structure with the following notations: "new roof to replace existing canopy" with "existing columns and low wall, typ."

BACKGROUND INFORMATION:

Site: PD No. 193 (MF-3 Subdistrict Dry) (Planned Development District, Multifamily)
North: PD No. 193 (MF-3 Subdistrict Dry) (Planned Development District, Multifamily)
South: PD No. 193 (MF-3 Subdistrict Dry) (Planned Development District, Multifamily)
East: PD No. 193 (MF-3 Subdistrict Dry) (Planned Development District, Multifamily)
West: PD No. 193 (MF-3 Subdistrict Dry) (Planned Development District, Multifamily)

Land Use:

The approximately 1.5-acre subject site is developed as a multi-story residential structure (The Plaza at Turtle Creek). The areas to the north, east, and west are developed with residential uses; and the area to the south is undeveloped.

Zoning/BDA History:

1. BDA 045-264, 2828 Hood Street (the subject site)
On September 21, 2005, the Board of Adjustment Panel B granted a request for a special exception to front yard setback regulations of 24', subject to the following conditions: Compliance with the submitted site plan and elevation is required. The case report states the request was made in conjunction with constructing an approximately 950 square foot porte cochere on an 18-story multifamily structure.
2. BDA 989-147, 2828 Hood Street (the subject site)
On January 19, 1999, the Board of Adjustment Panel B granted a request for a variance to side yard setback regulations of 30', and a variance to the rear yard setback regulations of 12' 4", subject to the following conditions: Compliance with the submitted site plan and elevation is required. The case report states the requests were made in conjunction with constructing an 18-story multifamily structure.
3. BDA 978-213, 3535 Gillespie (a tract of land including the subject site)
On August 18, 1998, the Board of Adjustment Panel B granted a request for a variance to side yard setback regulations of 45', subject to the following conditions: Compliance with the submitted site plan is required. The case report states the request was made in conjunction with constructing a 9-story multifamily structure. The report additionally noted that the request was

made due to a recent subdivision of the site and the lot to the east that resulted in the placement of a property line running diagonally through what had been a rectangular shaped lot, and the applicant's inability to obtain all required permits for a tower in conjunction with the approval of BDA 967-178 in 1997 within 180 days from the board's favorable action on February 25, 1997.

4. BDA 967-178, 3535 Gillespie (a tract of land including the subject site and the lot immediately to the east)

On February 27, 1997, the Board of Adjustment Panel B granted a request for a variance to the side yard variance of 45 requested in conjunction with constructing 2 high-rise multifamily buildings.

Timeline:

- Dec. 21, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Jan. 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."
- Jan. 17, 2008: The Board Administrator emailed the following information to the applicant's representative:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the January 28th deadline to submit additional evidence for staff to factor into their analysis;
 - the February 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This special exception request is made merely to replace an existing canopy that was “special excepted” by the Board of Adjustment in 2005 with a roof on an approximately 900 square foot porte cochere. The applicant is required to make another application for this replacement since the board conditioned the special exception request in 2005 to a site plan and to an elevation that specifically showed a canopy over the porte cochere verses a roof that is proposed.
- The existing porte cochere is rectilinear in shape and does not exceed 25 feet in width at the building line. (The structure is 20’ 1”-wide at the building line, and 38’ 1”-wide in the area between the building/setback line and the front property line).
- As in 2005, the Board Administrator conducted a field visit of the site and noted a number of landscape materials adjacent to the existing porte cochere. The existing landscape materials (trees and shrubs) significantly screen the existing porte cochere structure to a level where the structure is barely visible from certain areas on Hood Street and from neighboring properties. The submitted site plan denotes the location of four “existing trees” located between the existing porte cochere and Hood Street. If the Board were to grant the request and impose a condition in conjunction with this request that compliance with the submitted site plan is required, the retention/provision of these trees would be deemed part of conditions that must be met in conjunction with the special exception.
- As of February 5th, no letters have been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing the following with regard to the special exception to the front yard setback regulations of 24’:
 - The structure is rectilinear in shape and does not exceed 25 feet in width at the building line, and the structure will not adversely affect neighboring property.
- If the Board were to grant the front yard special exception request, subject to the submitted site plan and elevation, the encroachment into the site’s front yard setback would be limited to a porte cochere structure that is about 900 square feet in area located 1’ away from the Hood Street front property line. In addition, if the Board were to condition the request to the submitted elevation and site plan, the structure in the setback would be restricted to that what is shown on these documents – a structure shown on the submitted elevation to be comprised of a “new roof to replace existing canopy” with “existing columns and low wall, typ.”, and a structure shown on the submitted site plan to be screened from Hood Street by four existing trees.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Chernock

I move that the Board of Adjustment grant application **BDA 078-026** 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 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: Beikman

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4 – 0 (Unanimously)

FILE NUMBER: BDA 078-014(K)

BUILDING OFFICIAL'S REPORT:

Application of Jeffrey Fine for a special exception to the side yard setback regulations at 5825 Williamstown Road. This property is more fully described as Lot 9 in City Block B/6991 and is zoned R-16(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 2 foot side yard setback which will require a special exception of 8 feet for tree preservation to the side yard setback regulations.

LOCATION: 5825 Williamstown Road.

APPLICANT: Jeffrey Fine

REQUEST:

- A special exception to the side yard setback regulations of 8 feet is requested in conjunction with constructing and maintaining a single family accessory structure and provide a 2 foot side yard setback for the preservation of a tree in the side yard.

STAFF RECOMMENDATION:

Approval

Rationale:

- Although the trees are exempt from Article X, the Chief Arborist has examined the trees and determined the trees “are well maintained and are worthy of preservation (see attachment A).”

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board may grant a special exception to the minimum side yard requirements to preserve an existing tree.

In determining whether to grant this special exception, the board shall consider the following factors:

- (A) Whether the requested special exception is compatible with the character of the neighborhood.
- (B) Whether the value of surrounding properties will be adversely affected.
- (C) Whether the tree is worthy of preservation.

GENERAL FACTS:

- Structures on lots zoned R16(A) are required to provide a minimum side yard setback of 10’.
- The site is rectangular in shape (115 ‘x 177’) and 17,929 square feet in area where lots are required to have a minimum of 16,000 square feet in area.
- The proposed garage addition would encroach on the property’s western side yard setback.
- DCAD states that there are the following improvements on the subject site:
 - Room addition, 440 square feet
 - Pool

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family district 16,000 square feet)
North: R-16(A) (Single Family district 16,000 square feet)
South: R-16(A) (Single Family district 16,000 square feet)
East: R-16(A) (Single Family district 16,000 square feet)
West: R-16(A) (Single Family district 16,000 square feet)

Land Use:

The subject site is developed with a single family structure. 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:

- Dec. 19, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- January 18, 2008: The Board Senior Planner contacted the applicant and shared the following information by phone and letter:
- the public hearing date and panel that will consider the application;
 - the criteria and standards that the board will use in their decision to approve or deny the request;
 - the January 25th deadline to submit additional evidence for staff to factor into their analysis;
 - the February 1, 2008 deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearing. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- January 30, 2008: The Chief Arborist submitted a memorandum to the Board's Senior Planner (see attachment A)

STAFF ANALYSIS:

- The submitted site plan indicates that approximately 144 square feet (or 25% of the 576 square feet) of the proposed structure is located in 10' side yard setback.
- The site is flat, rectangular in shape (115' x 177') and 17,929 square feet in area. The site is zoned R-16 (A) where lots are typically 16,000 square feet in area.

- In R-16(A) districts the required side yard setback is 10 feet. The applicant is proposing to construct a garage addition 8' into the 10' side yard setback and provide a 2' side yard setback.
- The landscape plan submitted shows two clusters of live oak trees located on the property in close proximity to the proposed garage addition.
- A memo dated January 30,2008 from the city's chief arborist states the following:
 1. the two live oak cluster's are located where stated on the landscape survey
 2. the two clusters in question are maintained and worthy of preservation
 3. there is a silver maple tree located on the adjacent property that may be affected by the proposed development
 4. the neighboring tree (silver maple) has limbs that overhang the property and pruning of lower limbs would occur due to elevation of the proposed structure in the setback
 5. good construction practices should be used to protect tree roots and minimize the damage to any trees.
- Article X (Landscape and Tree Preservation Regulations) of the Dallas Development Code does not apply to this case since single family uses are exempt from Article X tree protection status.
- The applicant has the burden of proof in establishing the following:
 - That granting the special exception to the side yard setback regulations of 8' requested in conjunction with maintaining a single family accessory structure in the site's side yard setback is compatible with the character of the neighborhood.
 - The special exception to the side yard setback regulations of 8' will not adversely affect the value of surrounding properties.
 - The tree in question is worthy of preservation.
- If the Board were to grant the side yard special exception request of 8', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the side yard setback would be limited to that shown on this plan – which in this case is a single family accessory structure located 2' from the site's side property line (or 8' into of the 15' side yard setback).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: Jeffrey Fine, 5825 Willamstown Rd., Dallas, TX

APPEARING IN OPPOSITION: Ted Byers, 5817 Williamstown Rd, Dallas, TX

MOTION: **Beikman**

I move that the Board of Adjustment in Appeal No. **BDA 078-014**, hold this matter under advisement until **March 19, 2008**.

SECONDED: **Chernock**

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4– 0 (Unanimously)

FILE NUMBER: BDA 078-018(K)

BUILDING OFFICIAL'S REPORT:

Application of Samuel Paul Bebeau for a variance to the side yard setback regulations at 5002 Swiss Avenue. This property is more fully described as all of Lots 15 & 16 and the western 15 feet of Lot 14 in City Block D/682 and is zoned PD-63 (H/1), which requires a side yard setback of 15 feet. The applicant proposes to construct and maintain an accessory structure to a single family residential use and provide a 10 foot side yard setback which will require a variance of 5 feet.

LOCATION: 5002 Swiss Avenue

APPLICANT: Samuel Paul Bebeau

REQUEST:

- A variance to the side yard setback regulations of 5' is requested in conjunction with constructing and maintaining a single family accessory structure in the site's Collett Avenue 15' side yard.

STAFF RECOMMENDATION:

Denial

Rationale:

- Although staff concluded that granting variances does not appear to be contrary to the public interest since this requests focus on constructing and maintaining an accessory structure of a reasonable size and height on an approximately 1 acre site, neither the site's slope, its shape, or size precludes it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 63 zoning classification.
- The applicant has not substantiated how the physical features of the flat, 1 acre subject site (that is generally rectangular in shape) constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 63 zoning classification.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- Structures on lots zoned PD 63 are required to provide a minimum side yard setback of 15’.
- The site is rectangular in shape (175 ‘x 214’) and 43,221 square feet in area where lots are required to have a minimum of 10,000 square feet in area.
- The existing garage encroaches 5’ into the Collett Street side yard setback.
- DCAD states that there are following improvements on the subject site:
 - Detached garage 600 square feet
 - Detached servants quarters 1000 square feet
 - Porte cochere 300 square feet
 - Greenhouse 630 square feet

BACKGROUND INFORMATION:

Zoning:

Site: PD 63 (Planned Development)
North: PD 63 (Planned Development)
South: PD 63 (Planned Development)
East: PD 63 (Planned Development)
West: PD 63 (Planned Development)

Land Use:

The subject site is developed with a single family structure and accessory structures. 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:

Dec. 19, 2007: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 18, 2008: The Board Senior Planner contacted the applicant and shared the following information by phone and letter:

- the public hearing date and panel that will consider the application;
- the criteria and standards that the board will use in their decision to approve or deny the request;
- the January 25th deadline to submit additional evidence for staff to factor into their analysis;
- the February 1, 2008 deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

January 25, 2008 The applicant submitted a signed petition in support of the application (see attachment)

January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearing. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The submitted site plan indicates that approximately 100 square feet of the building footprint is located in the Collett Avenue 15' side yard setback.
- The site is flat, rectangular in shape (145' x 241') and 43,221 square feet in area. The site is zoned PD 63 where lots are a minimum of 10,000 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations of 5' requested in conjunction with maintaining a single family accessory structure in the site's Collett Avenue side yard setback 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 (a site that is flat, rectangular in shape (145' x 241') and 43,221 square feet in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 63 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 PD 63 zoning classification.
- If the Board were to grant the side yard variance request of 5', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the side yard setback would be limited to that shown on this plan – which in this case is a single family accessory structure located 10' from the site's Collett Avenue side property line (or 5' into of the 15' side yard setback).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR:

Craig Rekerdres, 5002 Swiss Ave., Dallas, TX
 Sam Bebeau, 5408 Swiss Ave., Dallas, TX
 John Hulse, 5001 Swiss Ave., Dallas, TX

APPEARING IN OPPOSITION:

Virginia mcAlester, 5703 Swiss Ave., Dallas, TX
 Anita Childress, 5421 Swiss Ave., Dallas, TX

MOTION: Chernock

I move that the Board of Adjustment, in Appeal No. **BDA 078-018**, on application of Sam Bebeau, **deny** the variance to the side yard setback regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: Beikman

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4– 0 (Unanimously)

FILE NUMBER: BDA 078-019

BUILDING OFFICIAL'S REPORT:

Application of Plan II Partners, LLC, represented by Robert Baldwin, for a variance to the height regulations at 10330 Strait Lane. This property is more fully described as Lot 1 in City Block 1/5527 and is zoned R-1ac(A) which limits the height of a structure to 36 feet. The applicant proposes to construct a single family residential structure with a height of 39 feet 4 inches which will require a variance of 3 feet 4 inches

LOCATION: 10330 Strait Lane

APPLICANT: Plan II Partners, LLC
Represented by Robert Baldwin

February 13, 2008 Public Hearing Notes:

- The applicant's representative submitted additional printed documentation to the board at the public hearing.

REQUEST:

- A variance to the height regulations of 3' 4" is requested in conjunction with constructing and maintaining a multi-story single family home that, according to the application and Building Official's Report, would reach 39' 4" in height on a site currently developed with a 2-story caretaker's quarters structure.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how the site's restrictive area, shape and/or slope precludes it from being developed with a commensurately-sized single family home typically found in the R-1ac(A) zoning district (i.e. a house that could meet the applicable development standards including the maximum 36' height provision).
- Although the site slopes about 20' over about 800 linear feet, is somewhat irregular in shape, has several mature trees, and is partially located in floodplain, none of these physical site characteristics singularly or combined preclude the approximately 9.5 acre site from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification. The size of the subject site at over 9 acres in area where lots zoned R-1ac(A) are typically one acre in area should allow it to be developed with a commensurately-sized house that can comply with the height regulations and all other development standards (including setback provisions) regardless of the its slight slope, irregular shape, and the location of trees and floodplain on it.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance

may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- The maximum height for a structure in the R-1ac (A) zoning district is 36 feet. The applicant submitted a document with section drawings indicating a proposed single family structure that, according the Building Official's report and application, would reach 39' 4" in height.
- The Dallas Development Code defines "height" as "the vertical distance measured from grade to:
 - A) for a structure with a gable, hip, or gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure;
 - B) for a structure with a dome roof, the midpoint of the vertical dimension of the dome; and
 - C) for any other structure, the highest point of the structure.
- The Dallas Development Code defines "grade" as "the average of the finished ground surface elevations measured to the highest and lowest exterior corners of a structure."
- According to calculations taken from the submitted site plan by the Board Administrator, the proposed single family home has a building footprint of about 6,600 square feet.
- A site plan has been submitted with contour lines. This plan indicates that the site is about 774' in width at its widest point from Strait Lane on the west to the site's eastern property line with contour lines ranging from 538' on the west to 520' on the east.
- The site is irregularly-shaped and according to the application is 9.6 acres in area. The site is zoned R-1ac (A) where lots are typically 1 acre in area.
- DCAD records indicate that the site is developed with the following:
 - a single family home in good condition built in 1996 with 2,566 square feet of living space; and
 - a 545 square foot attached garage.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included a letter to the board that provided additional details about the request.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 034-114, Property at 10330 Strait Lane (the subject site) On January 21, 2004, the Board of Adjustment Panel B denied a request for a variance to the height regulations of 17 feet without prejudice. The case report stated that the request was made to construct and maintain a 3-level single family home that would reach 41' in height
2. BDA 95-062, Property at 10330 Strait Lane (the subject site) On May 23, 1995, the Board of Adjustment granted a request for a variance to the height regulations (subject to compliance with the submitted elevation), granted a request for a special exception to allow an additional dwelling unit (subject to deed restrictions), and denied a request for a special exception to the height regulations of 6' 6" without prejudice. The case report stated that the requests were made to construct and maintain an approximately 40,000 square foot, single family home with a height of 41 feet and a chimney height of 56', an approximately 2,500 square foot gate house, and a 8'6" open metal fence with 12' 6" masonry columns.

Timeline:

- Dec. 20, 2007 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Jan. 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."
- Jan. 17, 2008: The Board Administrator contacted the applicant's representative and shared the following information by phone and email:
- the public hearing date and panel that will consider the application;

- the criteria/standard that the board will use in their decision to approve or deny the request;
- the January 28th deadline to submit additional evidence for staff to factor into their analysis;
- the February 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

January 25, 2008: The applicant's representative submitted additional information to the Board Administrator (see Attachment A).

January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This variance request is made to construct/maintain a multi-story single family home that would reach 39' 4" in height on a somewhat sloped, approximately 9.5 acre site that has a few mature trees, some floodplain, and a 2-story approximately 2,500 square foot caretakers quarters on it.
- Two previous building height variance requests have been made for the construction of a single family home on the subject site: one height variance request of 5' for the main structure and 8' for the chimney height) that was granted by the Board of Adjustment (subject to a building elevation) in 1995, and another height variance request of 17' that was denied by the Board of Adjustment without prejudice in 2004. (*Staff's recommendation for both of these applications was denial*).
- The site is irregularly-shaped and according to the application is 9.6 acres in area. The site is zoned R-1ac (A) where lots are typically 1 acre in area. A site plan has been submitted with contour lines indicating that the site is about 774' in width at its widest point from Strait Lane on the west to the site's eastern property line with contour lines ranging from 538' on the west to 520' on the east.
- The applicant has the burden of proof in establishing the following related to the front yard variance request:

- That granting the variance to the height regulations of 3' 4" requested to construct and maintain a multi-story single family home with an approximately 6,600 square foot building footprint 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 to the height regulations of 3' 4" is necessary to permit development of the subject site (a site with some mature trees and floodplain on it; a site that is irregular in shape but over 9 acres in area in a zoning district where lots are typically one acre in area; and a site developed with a 2-story, approximately 2,600 square foot caretaker's quarters) 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-1ac (A) zoning classification.
- The variance to the height regulations to construct/maintain a 39' 4" high single family structure 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 not permitted by this chapter to other parcels of land in districts with the same R-1ac (A) zoning classification.
- If the Board were to grant the variance to the height regulations, imposing a condition whereby the applicant must comply with the submitted site plan and elevation, the footprint of the proposed structure would be limited to that what is shown on this site plan, and the amount of the structure allowed to exceed 36' in height would be limited to that what is shown on the submitted elevation.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: Rob Baldwin, 401 Exposition, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment, in Appeal No. **BDA 078-019**, on application of Plan II Partners, represented by Robert Baldwin, **deny** the variance to the height regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Chernock**

AYES: 3–Beikman, Chernock, Sorrells

NAYS: 1 – Gillespie

MOTION PASSED 3– 1

FILE NUMBER: BDA 078-020(K)

BUILDING OFFICIAL'S REPORT:

Application of Professional Bank represented by Robert Baldwin for a special exception to the visibility obstruction regulations at 2101 Abrams Road. This property is more fully described as Lot 9 in City Block 6/2100 and is zoned PD-281 (Subdistrict Q), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a detached premise sign in a visibility obstruction triangle which will require a special exception.

LOCATION: 2101 Abrams Road

APPLICANT: Professional Bank
Represented by Robert Baldwin

REQUESTS:

- A special exception to the visibility obstruction regulations is requested in conjunction with constructing and maintaining a nonresidential structure.

STAFF RECOMMENDATION (visibility obstruction):

Denial

Rationale:

- The Development Services Senior Engineer submitted a comment sheet stating “no recommendation”. The site plan does not show how much encroachment in the 20’x20’ driveway visibility triangle the proposed sign will be (see attachment A).

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS:

- The site is zoned PD 281 which requires a visibility triangle of 20’.
- The site plan does not indicate where the sign will be located in relation to the visibility triangle nor the dimension of the proposed sign. A site plan has been submitted showing the location of the existing sign.
- The proposed site is an existing structure (commercial bank with drive thru).
- The properties in the vicinity include commercial and retail uses.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 281 Sub district Q (Lakewood Center Special Purpose District)

North: PD No. 281 Sub district R (Lakewood Center Special Purpose District)
South: PD No. 281 Sub district E-F (Lakewood Center Special Purpose District)
East: PD No. 281 Sub district A (Lakewood Center Special Purpose District)
West: PD No. 281 Sub district S (Lakewood Center Special Purpose District)

Land Use:

The subject site is developed with a nonresidential structure (commercial bank). The areas to the north, south, east and west are developed with nonresidential structures.

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:

- Dec. 20, 2007: The applicant's representative submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 17, 2008: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 18, 2008: The Board Senior Planner mailed the applicant's representative a letter that contained the following information:
- the public hearing date and panel that will consider the application;
 - the criteria and standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the January 25th deadline to submit additional evidence for staff to factor into their analysis and recommendation;
 - the February 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

January 24, 2008: The applicant's representative submitted an elevation of the proposed sign (see attachment B).

January 29, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

The Development Services Senior Engineer submitted a review comment sheet showing he has no recommendation to the special exception to the visibility obstruction regulations.

STAFF ANALYSIS:

- The applicant proposes to maintain a nonresidential structure (commercial bank with drive thru window).
- The applicant proposes to remove an existing sign and replace it with a proposed 79" x 72" sign.
- A review of the site plan by the Senior Planner indicates the dimension and location of the new sign have not been indicated.
- The elevation of the sign demonstrates the sign will be 79" in height and 72" in width.
- The applicant has stated the sign will not cause a traffic hazard because there is limited access on the property, only traffic traveling south on Abrams Road can make a right turn into drive.
- The city's senior engineer reviewed the plans and submitted a comment sheet showing "No recommendation." The site plan does not show how much the proposed sign will encroach into the 20'x 20' driveway visibility triangle (see attachment A)
- The applicant has the burden of proof in establishing that granting the special exception to the visibility obstruction regulations does not constitute a traffic hazard
If the Board were to grant the special exception to the visibility obstruction regulations, it may impose compliance with the submitted site plan and elevation.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: Rob Baldwin, 401 Exposition, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Chernock

I move that the Board of Adjustment, in Appeal No. **BDA 078-020**, on application of Professional Bank, represented by Robert Baldwin, **grant** the request of this applicant to erect a sign in a visibility triangle as a special exception to the visibility obstruction regulation contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will 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 elevation is required.

SECONDED: Beikman

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4– 0 (Unanimously)

FILE NUMBER: BDA 078-025(K)

BUILDING OFFICIAL'S REPORT:

Application of Jennifer Judin and Cheryl Hickock for a special exception to the fence height regulations at 8176 Barbaree Boulevard. This property is more fully described as Lot 18 in City Block B/7040 and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6 foot 4 inch fence in a required front yard setback which will require a special exception of 2 feet 4 inches.

LOCATION: 8176 Barbaree Boulevard

APPLICANT: Jennifer Judin and Cheryl Hickock

REQUEST:

- A special exception to the fence height regulations of 2' 4" is requested in conjunction with maintaining a 6'4" high fence in the site's front yard setback.

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.

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.

GENERAL FACTS:

- The subject site is located in 8100 block of Barbaree Blvd and is zoned R ½ acre which requires a 40' front yard setback.
- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts. The applicant submitted a site plan showing the 6'4" fence located 20' from the front property line or 20' into the property's required 40' front yard setback.
- The submitted site plan states the fence is constructed of 4x4 cedar post, 2'x4" grid of 6 gage galvanized steel, 4x4 steel tubes with caps set in concrete at each side of the gate, with a 5'6" operable metal gate.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2ac (A) (Single family district 1/2 acre)
North: R-1/2ac (A) (Single family district 1/2 acre)
South: R-1/2ac (A) (Single family district 1/2 acre)
East: R-1/2ac (A) (Single family district 1/2 acre)
West: R-1/2ac (A) (Single family district 1/2 acre)

Land Use:

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

Zoning/BDA History:

There is no history on this site or sites in the immediate vicinity.

Timeline:

Dec. 21 2007 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 17, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 18, 2008: The Board's Senior Planner contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria and standards that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the January 25th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the February 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information, evidence and testimony presented to them by the applicant and all other interested parties.

January 29 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Board Senior Planner, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the existing fence, columns and gate.
- According to the submitted site plan, the fence is constructed of cedar post and galvanized steel wires. The gate is operable and constructed of steel tubes with caps.
- The scale elevations submitted show the fence to stand 6'4" high and the gate to stand 5'6" high.

- The neighborhood is comprised of single family structures; there are no other fences on the 8100 block of Barbaree Blvd.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence and gate that are proposed to exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 2' 4" with conditions imposed that the applicant complies with the submitted site plan, landscape plan, and elevation would assure that the proposed fences, columns, and gates are constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 13, 2008

APPEARING IN FAVOR: Cheryl Hickock, 8176 Barbaree Blvd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Sorrells**

I move that the Board of Adjustment, in Appeal No. **BDA 078-025**, on application of Jennifer Judin and Cheryl Hickock, **grant** the request of this applicant to construct and maintain a six-foot-four-inch-tall fence on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Beikman**

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4– 0 (Unanimously)

MOTION: **Chernock**

I move to adjourn this meeting.

SECONDED: **Beikman**

AYES: 4–Gillespie, Beikman, Chernock, Sorrells

NAYS: 0 –

MOTION PASSED 4 – 0 (unanimously)

2:27 P.M. - Board Meeting adjourned for **February 13, 2008.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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