

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1 CONFERENCE CENTER AUDITORIUM
WEDNESDAY, JUNE 19, 2013**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Christian Chernock, regular member, David Wilson, regular member and Paula Leone, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Christian Chernock, regular member, David Wilson, regular member and Paula Leone, regular member

MEMBERS ABSENT FROM HEARING: No one

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

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, and Trena Law, Board Secretary

11:02 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 19, 2013 docket.**

1:05 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 May 22, 2013 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: **JUNE 19, 2013**

MOTION: Gillespie

I move approval of the **Wednesday, May 22, 2013** Board of Adjustment Public Hearing minutes.

SECONDED: Chernock

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-053

BUILDING OFFICIAL’S REPORT: Application of Semyon Narosov, represented by Dustin Tyler Fair, for special exceptions to the fence height regulations at 9727 Audubon Place. This property is more fully described as Lot 11A, Block 14/5587, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 10 foot high fence, which will require a special exception to the fence height regulations of 6 feet.

LOCATION: 9727 Audubon Place

APPLICANT: Semyon Narosov
 Represented by Dustin Tyler Fair

REQUEST:

- A special exception to the fence height regulations of 6’ is made in conjunction with the following on a site developed with a single family home:
 1. replacing an existing approximately 4’ high open iron fence that spans approximately half the length of the subject site located in the site’s 40’ Audubon Place front yard setback with an 8’ high open iron fence and columns with 10’ high open iron gate/ entry columns that would span across the entire length of the site’s Audubon Place front yard setback, and
 2. constructing and maintaining an 8’ high open iron fence in the site’s Park Lane frontage where there is currently no fence.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 123-053, Property at 9727 Audubon Place (the subject site) On October 21, 2009, the Board of Adjustment Panel B denied the requests for an additional dwelling unit on the property and a fence height special exception of 4' without prejudice. The case report stated that a special exception to the fence height regulations of 4' was requested in conjunction with replacing an existing approximately 4' high open iron fence that spans approximately half the length of the subject site and located in the site's 40' Audubon Place front yard setback with a 6' high open iron fence with an 8' high open iron gate/stone entry columns flanked by 4' long, 6' – 7' 6" high stone wing walls that would span across the entire length of the site and be located in the site's two 40' Audubon Place and Park Lane front yard setbacks; and a special exception to the single family regulations was requested in

conjunction with constructing and maintaining two-story, additional dwelling unit/“guesthouse/pool house” structure that would have (according to submitted plans) approximately 2,300 square feet “under roof” that would attach to the existing two-story single family home on the site that has (according to DCAD) 13,002 square feet of living area. The minutes of this hearing stated that the Board Administrator circulated an October 21st email from the applicant to the board members at the morning briefing – an email where the applicant requested that the board deny his requests without prejudice.

2. BDA 012-237, Property at 9727 Audubon Place (the subject site)

On September 9, 2002, the applicant withdrew a request for a fence height special exception of 2’ 6” that had been randomly assigned to Board of Adjustment Panel B.

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

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

4. BDA 967-313, Property at 9762 Audubon Place (three lots northeast of the subject site)

On October 28, 1997, the Board of Adjustment Panel A granted a request for special exception to the fence height regulations to maintain a 6 foot 6 inch high fence with 6 foot 10 inch high columns, and a 9 foot 6 inch high entry gate/columns, and imposed the following conditions: Compliance with the submitted site/landscape/elevation plan is required. The case report stated that the request was made in conjunction with constructing and maintaining a 6.6’ open iron fence and 10 9.5’ high solid iron columns (including decorative lights) in the Audubon Place front yard setback.

5. BDA 023-084, Property at 4800 Park Lane (the lot immediately south of the subject site)

On June 16, 2003, the Board of Adjustment Panel C granted a request for special exception to the fence height regulations of 2’ 10” and imposed the following conditions: Compliance with the submitted

site/landscape plan and fence elevation is required. The case report stated that the request was made in conjunction with constructing and maintaining a maximum 6' 10" high cast iron fence with "brick underpinning;" maximum 6' 10" brick columns; and two maximum 6' 10" high cast iron gates at the two ingress/egress points on the eastern and western ends of the estate.

Timeline:

- March 29, 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.
- May 15, 2013: 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."
- May 15, 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on replacing an existing approximately 4' high open iron fence that spans approximately half the length of the subject site located in the site's 40' Audubon Place front yard setback with an 8' high open iron fence and columns with 10' high open iron gate/ entry columns that would span across the entire length of the site's Audubon Place front yard setback, and constructing and maintaining an 8' high open iron fence in the site's Park Lane frontage where there is currently no fence.
- 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 subject site is located at the north corner of Park Lane and Audubon Place. Regardless of how the existing single family structure is oriented to Audubon Place, the subject site has 40' front yard setbacks along both streets. The site has a 40' front yard setback along Park Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 40' front yard setback along Audubon Place, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 9' fence can be constructed and maintained by right. But the site's Audubon Place frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes northeast of the site that front/are oriented southeastward onto Audubon Place.
- The applicant has submitted a site plan/elevation document and a partial elevation indicating a fence/column/gate proposal that would be located in the site's two 40' front yard setbacks along Audubon Place and Park Lane and would reach a maximum height of 10'.
- The following additional information was gleaned from the submitted site plan/elevation document:
 - The proposal would be approximately 460' in length parallel to Audubon Place with a recessed entryway and approximately 100' in length parallel to Park Lane.
 - The proposed fence is shown to be located at approximate distances of 5' from the front property lines or at approximate distances of about 20' from the "street edge."
 - The proposed gate is shown to be located at approximate distance of 5' – 25' from the front property lines or at approximate distances of about 20' – 40' from the "street edge."
- The proposal is located on a site where one single family home would have direct/indirect frontage to the proposal on Audubon Place (a lot with no fence in the front yard setback higher than four feet), and where one single family home would have direct frontage to the proposal on Park Lane (a lot with a fence, columns, and gate in the front yard setback that appears to be the result of a fence height special exception granted by the Board of Adjustment in 2003 – BDA 023-084).
- The Board Administrator conducted a field visit of the site and surrounding area along Audubon Drive (approximately 500 feet north of the site) and along Park Lane (approximately 200 feet east and west of the site) and noted the following additional

fence/walls beyond the one described above which appeared to be located in the front yard setback:

- an approximately 6.5 foot high open metal fence with 7.5 foot high columns immediately north of the site (which appears to have been “excepted” by the board in 1996- BDA 956-163); and
 - an approximately 6.6’ open iron fence and 10 9.5’ high solid iron columns three lots northeast of the site (which appears to have been “excepted” by the board in 1997- BDA 967-313).
- As of June 10, 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 6’ will not adversely affect neighboring property.
 - Granting this special exception of 6’ with a condition imposed that the applicant complies with the site plan/elevation document and a partial elevation would require the proposal exceeding 4’ in height in the front yard setbacks to be constructed and maintained in the locations and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2013

APPEARING IN FAVOR: Dustin Tyler Fair, 2331 Hartline, Dallas, TX

APPEARING IN OPPOSITION:

MOTION: **Leone**

I move that the Board of Adjustment, in Appeal No. **BDA 123-053**, on application of Semyon Narosov, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: **Gillespie**

AYES: 3– Reynolds, Gillespie, Leone

NAYS: 2 – Chernock, Wilson,

MOTION PASSED 3 – 2

FILE NUMBER: BDA 123-055

BUILDING OFFICIAL’S REPORT: Application of John J. DeShazo, Jr. for a special exception to the off-street parking regulations at 6401 E. Mockingbird Lane. This property is more fully described as Lot 1, Block H/2956, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and/or maintain a structure for an office use, medical clinic or ambulatory surgical center use, personal service use, restaurant without drive-in or drive-through service use, general merchandise or food store 3500 square feet or less use, and general merchandise or food store greater than 3500 square feet use, and provide 818 of the required 983

parking spaces, which will require a special exception to the off-street parking regulations of 165 spaces.

LOCATION: 6401 E. Mockingbird Lane

APPLICANT: John J. DeShazo, Jr.

REQUEST:

A special exception to the off-street parking regulations of 165 spaces is made in conjunction with leasing and maintaining square footage/space within an existing community retail center (Hillside Village Shopping Center) with approximately 170,000 square feet of leasable area that according to the applicant that is currently approximately 10 percent vacant with a certain mix of uses (office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet), and providing 818 (or 83 percent) of the 983 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). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 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)(4)(A). For the office use, the maximum reduction authorized by this section is 35 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)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 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 165 spaces shall automatically and immediately terminate if and when the office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet uses are changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the existing/proposed office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet 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 the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: R-7.5(A) & D(A) (Single family residential 7,500 square feet and Duplex)
South: PD 79 (Planned Development)
East: D(A) (Duplex)
West: CR (Community Retail)

Land Use:

The subject site is developed with an existing community retail center (Hillside Village Shopping Center) with approximately 170,000 square feet of leasable area. The area to the north is developed with a church and duplex uses; the area to the east is developed with duplex uses; and the areas to the south and west are developed with retail uses.

Zoning/BDA History:

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

Timeline:

- March 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.
- May 15, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 15, 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction

Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

June 10, 2013: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on leasing and maintaining square footage/space within an existing community retail center (Hillside Village Shopping Center) with approximately 170,000 square feet of leasable area that according to the applicant that is currently approximately 10 percent vacant with a certain mix of uses (office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet), and providing 818 (or 83 percent) of the 983 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
 - Office use: 1 space per 333 square feet of floor area.
 - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area
 - Personal service use: 1 space per 200 square feet of floor area.
 - Restaurant without drive-in service use: as a main use: 1 space per 100 square feet of floor area; as a limited or accessory use: 1 space per 200 square feet of floor area
 - General merchandise or food store 3,500 square feet or less: 1 space for 200 square feet of floor area.
 - General merchandise or food store greater than 3,500 square feet: 1 space for 200 square feet of floor area.

The applicant proposes to provide 818 (or 83 percent) of the required 983 off-street parking spaces in conjunction with the site being leased/maintained with a combination of the uses mentioned above, more specifically, according to a study submitted with the application, leasing all current vacant areas as well as converting two existing retail tenants to restaurant.

- The applicant has submitted a study that has concluded that results from parking demand projections indicate that a proposed parking supply of 818 spaces exceeds the peak parking demand projection of 569 spaces on a typical Saturday at 1 p.m. with a surplus of 249 or approximately 30 percent of the total supply.
- The Sustainable Development Department Project Engineer 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 existing/proposed office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet uses on the site does not warrant the number of off-street parking spaces required, and

- The special exception of 165 spaces (or a 17 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 165 spaces shall automatically and immediately terminate if and when the office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet uses are changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses with the specified square footages, and provide 818 of the 983 code required off-street parking spaces.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2013

APPEARING IN FAVOR: John DeShazo, 330 union Station, Dallas, TX
 Jim Tudor, 14881 Quorum, #450, Dallas, TX

APPEARING IN OPPOSITION:

MOTION: **Gillespie**

I move that the Board of Adjustment, in Appeal No. **BDA 123-055**, on application of John J. DeShazo, Jr., grant the requested special exception of 165 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 shall automatically and immediately terminate if and when the office, medical clinic or ambulatory surgical center, personal service, restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and general merchandise or food store greater than 3,500 square feet uses, or any combination of these uses that would normally need no more than 983 required off-street parking spaces, are changed or discontinued.

SECONDED: **Wilson**

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-037

BUILDING OFFICIAL'S REPORT: Application of Jonathon A. Erdelijac represented by Construction Concepts, Inc., for a variance to the side yard setback regulations at 1111 N. Beckley Avenue. This property is more fully described as Lot 16, Block 17/3339, and is zoned PD 468 (Subdistrict D), which requires a side yard setback of 10 feet. The applicant proposes to construct and maintain a structure and provide a 0 foot side yard setback, which will require a variance to the side yard setback regulations of 10 feet

LOCATION: 1111 N. Beckley Avenue

APPLICANT: Jonathon A. Erdelijac
Represented by Construction Concepts, Inc.

June 19, 2013 Public Hearing Notes:

- The applicant submitted additional documentation to the Board at the public hearing that included a revised site plan and elevation of the proposed addition.

REQUEST:

A variance to the side yard setback regulations of 10' is made in conjunction with constructing and maintaining a proposed addition and a proposed ramp structures to an existing retail structure/restaurant use (Jonathan's Oak Cliff), part of which would be located in the site's 10' southern side yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff was unable to conclude how the parcel/subject site differs from other parcels of land by being of such 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 PD 468 (Subdistrict D) zoning classification. The size, shape, and slope of the relatively flat, slightly irregular in shaped, approximately 4,700 square foot subject site have not preclude the applicant/owner from developing it with a structure/use without an addition and ramp structure in the required side yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: PD 468 (Subdistrict D) (Planned Development)
North: PD 468 (Subdistrict D) (Planned Development)
South: PD 468 (Subdistrict D) (Planned Development)
East: PD 468 (Subdistrict D) (Planned Development)
West: PD 468 (Subdistrict D) (Planned Development)

Land Use:

The subject site is developed with a restaurant use (Jonathan’s Oak Cliff). The areas to the north, east, and south are developed with retail uses; and the area to the west is developed with residential uses.

Zoning/BDA History:

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

Timeline:

- March 4, 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.
- May 15, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 15, 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

June 4, 2013:

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

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining an addition with an approximately 260 square foot building footprint and a ramp “structure” with an approximately 320 square foot building footprint to an existing retail structure/restaurant use (Jonathan’s Oak Cliff), part of which would be located in the site’s 10’ southern side yard setback
- Structures on lots zoned PD 468 (Subdistrict D) are required to provide a minimum side yard setback of 10’.
- A scaled site plan has been submitted indicating that part of the addition and ramp structures are as close as on the site’s southern side property line or as much as 10’ into this 10’ side yard setback.
- According to DCAD records, the “improvements” at 1111 N. Beckley Avenue is a restaurant built in 1940 with 1,064 square feet.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed addition to be located in the site’s 10’ southern side yard setback is approximately 160 square feet in area or about 1/2 of the total addition footprint of 260 square feet, or approximately 15 percent of the total existing building footprint of approximately 1,100 square feet.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed ramp to be located in the site’s 10’ southern side yard setback is approximately 270 square feet in area or about 84 percent of the total ramp footprint of 320 square feet, or approximately 25 percent of the total existing building footprint of approximately 1,100 square feet.
- The subject site is relatively flat, slightly irregular in shape (approximately 90’ on the north, approximately 73’ on the south, approximately 50’ on the east, and approximately 57’ on the west), and according to the application, 0.109 acres (or approximately 4,700 square feet) in area. The site is zoned PD 468 (Subdistrict D).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal

enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 468 (Subdistrict D) zoning classification.
- The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 468 (Subdistrict D) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to that what is shown on this document– which in this case is an addition and a ramp “structure” located on the site’s southern side property line or 10’ into this 10’ required side yard setback.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2013

APPEARING IN FAVOR: Jonathan Erdelijac, 5626 Preston Oaks Rd., Dallas, TX
Elias Rodriguez, 317 E. Jefferson, Dallas, TX
Bob Stinson, 707 Tenna Loma, Dallas, TX

APPEARING IN OPPOSITION: Pam Conley, 901 N. Madison Ave., Dallas, TX
Betty Annis, 1112 Ballard, Dallas, TX
Josephine Cruz, 1155 N. Madison Ave., Dallas, TX

MOTION: Chernock

I move that the Board of Adjustment, in Appeal No. **BDA 123-037**, on application of Jonathon A Erdelijac, grant a 10 foot variance to the side yard setback regulations because our evaluation of the property and 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 dated 6-19-13 is required.

SECONDED: Wilson

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-056

BUILDING OFFICIAL’S REPORT: Application of Anthony Scalia for special exceptions to the fence height and visual obstruction regulations at 2014 Caddo Street. This property is more fully described as Lot 1 and part of Lot 2, Block 1/607, and is zoned

MF-2(A), which limits the height of a fence in the front yard to 4 feet, and requires a 45 foot visibility triangle at a street intersection, and 20 foot visibility triangles at drive approaches and at alley and street intersections. The applicant proposes to construct and/or maintain a 6 foot high fence, which will require a special exception to the fence height regulations of 2 feet, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 2014 Caddo Street

APPLICANT: Anthony Scalia

June 19, 2013 Public Hearing Notes:

- Staff informed the Board of Adjustment at the briefing of a change in ownership of the property since the application was filed by owners Anthony Scalia and Kymberly Woodard in March of 2013 – that the new owner of the property was H. Golden Properties, LLC. Staff informed the Board of Adjustment that the necessary documentation regarding the change in ownership had been submitted to them.
- The Sustainable Development and Construction Department Engineering Division Assistant Director amended the applicant’s submitted site plan at the public hearing in a manner in which he could support the requests for special exceptions to the visual obstruction regulations. The amendments made would involve certain modifications that the applicant would be required to make with regard to the existing fences on the property in the 45’ visibility triangle at the intersection of Caddo Street and Lafayette Street and in the 20’ visibility triangle at the intersection of the alley at Lafayette Street.

REQUESTS:

The following appeals have been made on a site that is developed as a multifamily development and what is labeled on the submitted site plan as three single family houses:

1. Special exceptions to the fence height regulations of 2’ are requested in conjunction with maintaining a 6’ high open steel picket fence in the two 15’ front yard setbacks along Caddo Street and Lafayette Street.
2. Special exceptions to the visual obstruction regulations are requested in conjunction with maintaining the aforementioned 6’ high open steel picket fence in the 45’ visibility triangle at the intersection of Caddo Street and Lafayette Street, in the two 20’ visibility triangles on either side of the driveway into the site from Lafayette Street, and in the 20’ visibility triangle at the intersection of the alley at Lafayette Street.

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.

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):

Denial of the requests for visual obstruction special exceptions at the street intersection and at the alley/Lafayette Street intersection

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has recommended denial of these requests commenting that the street corner fence blocks view of pedestrians near a park and school, and the alley corner fence blocks view of a sidewalk.
- The applicant has not substantiated how the location of the items (an existing 6' high open steel picket fence) located in the street intersection and in the alley/Lafayette Street intersection triangles does not constitute a traffic hazard.

Approval of the requests for visual obstruction special exceptions at the drive approach into the site from Lafayette Street, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has no objections to this request.
- The applicant has substantiated how the location of the 6' high open steel picket fence in the 20' visibility triangles at the drive approach into the site from Lafayette Street does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: PD 305 (Planned Development)
South: PD 305 (Planned Development)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

The subject site is being developed is developed as a multifamily development and with what is labeled on the submitted site plan as three single family houses. The areas to the north, east, and west are developed with residential uses; and the area to the south is developed as a park (J.W. Ray).

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:

- March 29, 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.
- May 15, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 15, 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th 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.”
- June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- June 10, 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 regulations marked “Recommends that this be denied” Commenting “street corner fence blocks view of pedestrians near a park and school; alley

corner fence also blocks view of sidewalk, and driveway gate is OK.”

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

- These requests focus on maintaining a 6’ high open steel picket fence in the two 15’ front yard setbacks along Caddo Street and Lafayette Street on a site developed as a multifamily development or what the site plan labels as a property as three single family houses.
- 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. In multifamily districts a fence located in the required front yard may be built to a maximum height of six feet above grade if all conditions in the following subparagraphs are met:
 1. No lot in the blockface may be zoned as a single family or duplex district.
 2. No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.
 3. No fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. For purposes of this subsection, fence panels are the portions of the fence located between the posts or columns.
- The applicant has submitted a site plan of the proposal in the site’s two 15’ front yard setbacks that reaches a maximum height of 6’. (Note that this fence would be allowed by right given that the property is zoned MF-2(A) if it were not for the fact that a gate for vehicular traffic is located less than 20 feet from the back of the street curb on Lafayette Street. The 6’ high open steel picket gate is located about 12’ from the back of the Lafayette Street curb).
- The following additional information was gleaned from the submitted site plan:
 - The existing 6’ high open steel fence along Caddo Street is represented as being approximately 80 in length parallel to the street and about 15’ on both sides of the site in the front yard setback.
 - The existing 6’ high open steel fence along Lafayette Street is represented as being approximately 125’ in length parallel to the street and about 15’ on both sides of the site in the front yard setback.
 - The existing 6’ high open steel fence is shown to be located approximately on the site’s front property lines or 12’ from the pavement lines.
- The existing 6’ high open steel fence on Caddo Street is located across from a park with no single family home that fronts it.
- The existing 6’ high open steel fence on Lafayette Street is located across from multifamily uses that have fences over 4’ in height.
- The Board Administrator conducted a field visit of the site and surrounding area and noted a number of other fences that appeared to be above 4’ in height, none with recorded BDA history. The code does allow fences in multifamily districts to reach 6’ in height if all three conditions previously mentioned in this case report are met.
- As of June 10, 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 exceptions to the fence height regulations of 2’ will not adversely affect neighboring property.

- Granting these special exceptions of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setbacks to be maintained in the locations 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 an existing 6' high open steel picket fence in the 45' visibility triangle at the intersection of Caddo Street and Lafayette Street, in the two 20' visibility triangles on either side of the driveway into the site from Lafayette Street, and in the 20' visibility triangle at the intersection of the alley at Lafayette 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 site plan and an elevation has been submitted indicating an existing 6' high open steel picket fence located in the four visibility triangles previously mentioned in this case report.
- 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 regulations marked "Recommends that this be denied" Commenting "street corner fence blocks view of pedestrians near a park and school; alley corner fence also blocks view of sidewalk, and driveway gate is OK."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain the 6' high open steel picket fence in the four visibility triangles does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the items in the visibility triangles to be limited to the locations, heights and materials of those items as shown on these documents.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2013

APPEARING IN FAVOR: Sid Siddiqui, 6429 Orchid Lane, Dallas, TX
Winfred Tubbs, 10814 Crooked Creek, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Leone

I move that the Board of Adjustment, in Appeal No. **BDA 123-056**, on application of Sid Siddiqui, grant the request to construct and maintain a 6 foot high fence on the property as a special exception to the height requirement for fences 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 dated 6-19-13 and submitted elevation is required.

SECONDED: Chernock

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION #2: Leone

I move that the Board of Adjustment, in Appeal No. **BDA 123-056**, on application of Sid Siddiqui, grant the request to maintain a 6 foot high open steel picket fence in the visibility triangles at the intersection of Caddo Street and Lafayette Street; on either side of the driveway into the site from Layfette Street; at the intersection of the alley at Layfette Street on the property as special exceptions to visual obstruction regulation in the Dallas Development Code, because our evaluation of the property and the testimony shows that these special exceptions 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 dated 6-19-13 and submitted elevation is required.

SECONDED: Chernock

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 123-065

BUILDING OFFICIAL’S REPORT: Application of Ignacio Garcia for a special exception to the front yard setback regulation and special exceptions to the visual obstruction regulations at 6932 Tayloe Street. This property is more fully described as Lot 19, Block 19/5818, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and requires 20 foot visibility triangles at drive approaches. The applicant proposes to construct and/or maintain a carport and provide an 8 foot setback, which will require a special exception to the front yard setback regulations of 17 feet, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations

LOCATION: 6932 Tayloe Street

APPLICANT: Ignacio Garcia

June 19, 2013 Public Hearing Notes:

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

REQUESTS:

The following appeals have been made on a site that is developed with a single family home:

1. A special exception to the front yard setback regulations of 17' is requested in conjunction with maintaining what is represented on the submitted site plan as an approximately 570 square foot carport attached to a single-family home, part of which is located in the site's 25' front yard setback.
2. Special exceptions to the visual obstruction regulations are requested in conjunction with maintaining two metal posts of the aforementioned carport; and portions of a 4' high open metal picket fence in the two 20' visibility triangles on either side of the driveway into the site from Tayloe Street.

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

The Board of Adjustment may grant a special exception to the minimum front yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board:

- (1) there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
- (2) the carport will not have a detrimental impact on surrounding properties.

In determining whether to grant a special exception, the Board shall consider the following:

- (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) The suitability of the size and location of the carport.
- (D) The materials to be used in construction of the carport.
(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (front yard special exception):

No staff recommendation is made on this or any request for a special exception to the front yard setback regulations since the basis for this type of appeal is *when in the opinion of the board*, there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and the carport will not have a detrimental impact on surrounding properties.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director recommends that these requests be denied commenting that backing vehicles are not able to see children using the sidewalk.
- The applicant has not substantiated how the location of the items (carport posts and a 4' high open metal picket fence in the 20' visibility triangles on either side of the driveway into the site from Tayloe Street) does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: CR (SUP 1863)(Community retail, specific use permit)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA 023-037, Property at 6933 Tayloe Street (the lot immediately northwest of the subject site) On December 10, 2002, the Board of Adjustment Panel A granted a request for a variance of 20' to the front yard setback regulations. The Board imposed the following conditions to this request: The carport must remain open at all times; all applicable building permits must be obtained; compliance with the submitted and amended site plan and elevation is required; storage of items other than motor vehicles is prohibited; and the applicant must submit to the Board Administrator within 180 days from

this hearing, documentation from a doctor verifying that a “handicapped person” resides at this address, and that this “handicapped person” meets terminology of “handicap” as that term is defined in the Federal Fair Housing Amendment Act of 1988. The case report stated how the request was made in conjunction with maintaining an approximately 520 square foot (20’ x 26’), two-vehicle, flat-roofed steel/metal carport on a site developed with a single family home where approximately 400 square feet of the existing carport is located in the front yard setback. The case report noted that the Dallas Development Code provides two methods in which the Board of Adjustment can consider allowing carports located in the front yard setback. One method is requesting a *variance* to the setback regulations; the other method is a *special exception* to the setback regulations. Each method has a separate standard or basis in which the board shall consider. In this particular case, the applicant had requested a *variance* to the setback regulations.

Timeline:

- April 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.
- May 15, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 15, 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th 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.”

June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

June 11, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's requests for special exceptions to the visual obstruction regulations marked "Recommends that this be denied" commenting "backing vehicles are not able to see children using the sidewalk."

GENERAL FACTS/STAFF ANALYSIS (front yard special exception):

- This request focuses maintaining what is represented on the submitted site plan as an approximately 570 square foot carport attached to a single-family home, part of which is located in the site's 25' front yard setback.
- A 25' front yard setback is required in the R-7.5(A) zoning district. The applicant submitted a site plan and elevation indicating that the location of the existing carport is 8' from the site's front property line or 17' into the 25' front yard setback.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the front yard setback with a specific standard for this type of appeal. (Note that the Dallas Development Code does not provide a definition of "carport" however Building Inspection interprets a "carport" to be a structure that would cover a vehicle and be open on at least one side).
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the front yard setback with a different basis for appeal than that of *special exceptions for carports* in the front yard setback.
- The following information was gleaned from the submitted site plan:
 - The carport is represented to be approximately 24' in length and approximately 24' in width (approximately 570 square feet in total area) of which approximately 400 square feet (or approximately 3/4) is located in the front yard setback.
 - There is a 5' wide area between the existing house and the two side property lines of the subject site property – neither distance wide enough to allow a driveway.
- The following information was gleaned from the submitted elevation:
 - Corrugated metal roof
 - 4' x 4' metal posts
- The submitted plat map shows an alley on the south side of the subject site.
- The subject site is approximately 137' x 55' (or 7,500 square feet) in area.

- According to DCAD, the property at 6932 Tayloe has the following “main improvement” of a structure with 1, 052 square feet built in 1949, and “additional improvements” of a 660 square foot detached garage.
- The applicant has the burden of proof in establishing the following:
 - there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
 - the carport will not have a detrimental impact on surrounding properties.
- As of June 10, 2013, 6 letters had been submitted in support of the request and no letters had been submitted in opposition.
- Typically, staff has suggested that if the Board concludes at their hearing that the applicant has established the necessary facts to warrant favorable action, that they impose certain conditions with this type of appeal. The following conditions would restrict the location and size of the carport in the front yard setback; would require the carport in the front yard setback to be maintained (in this case) in a specific design with specific materials and in a specific configuration; and would require the applicant to mitigate any water drainage-related issues that the carport may cause on the lot immediately west:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.

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

- These requests focus on maintaining two metal posts of an existing carport and portions of a 4’ high open metal picket fence in the two 20’ visibility triangles on either side of the driveway into the site from Tayloe Street.
- The applicant has emailed photos to the Board Administrator which show that existing shrubs noted in his field trip of the subject site in one of the two drive approach visibility triangles have been removed and are not part of his requests for visual obstruction special exceptions to the Board.
- 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 site plan and an elevation has been submitted indicating posts of an existing carport and portions of a 4’ high open metal picket fence located in the two visibility triangles on either side of the driveway into the site from Tayloe Street.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant’s requests for special exceptions to the visual obstruction regulations marked “Recommends that this be

denied” commenting “backing vehicles are not able to see children using the sidewalk.”

- The applicant has the burden of proof in establishing how granting the requests for special exceptions to two metal posts of an existing carport and portions of a 4’ high open metal picket fence in the two 20’ visibility triangles on either side of the driveway into the site from Tayloe Street does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the items in the 20-foot visibility triangles on either side of the driveway into the site from Tayloe Street to be limited to the locations, heights and materials of those items as shown on these documents.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2013

APPEARING IN FAVOR: Celestina Granados, 6932 Tayloe St., Dallas, TX
Ignacio Garcia, 6932 Tayloe St., Dallas, TX

APPEARING IN OPPOSITION: No one

APPEARING FOR THE CITY: Olga Torres-Holyoak, 1500 Marilla St., Dallas, TX

MOTION #1: Wilson

I move that the Board of Adjustment, in Appeal No. **BDA 123-065**, on application of Ignacio Garcia, **deny** the special exception to the front yard setback requirements for a carport requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the carport will have a detrimental impact on surrounding properties.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION #2: Wilson

I move that the Board of Adjustment, in Appeal No. **BDA 123-065**, on application of Ignacio Garcia, **deny** the special exception to the visual obstruction regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application will constitute a traffic hazard.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION: Wilson

I move to adjourn this meeting.

SECONDED: Chernock

AYES: 5 – Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

3:18 P.M. Board Meeting adjourned for **June 19, 2013.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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