

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM  
WEDNESDAY, SEPTEMBER 19 2012**

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

MEMBERS ABSENT FROM BRIEFING: Paula Leone, regular member

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

MEMBERS ABSENT FROM HEARING: Paula Leone, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

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**11:35 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 19, 2012 docket.**

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**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.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B August 15, 2012 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION:    SEPTEMBER 19, 2012**

**MOTION: Chernock**

I move approval of the **Wednesday, August 15, 2012** Board of Adjustment Public Hearing minutes.

**SECONDED: Wilson**

**AYES: 4– Reynolds, Gillespie, Chernock, Wilson**

**NAYS: 0 –**

**MOTION PASSED 4 – 0 (unanimously)**

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**FILE NUMBER:    BDA 112-087**

**BUILDING OFFICIAL’S REPORT:**

Application of Jennifer Paschall for a special exception to the fence height regulations at 4931 Allencrest Lane. This property is more fully described as Lot 12 in City Block F/6394 and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain a 5 foot 6 inch high fence, which will require a special exception of 1 foot, 6 inches.

**LOCATION:            4931 Allencrest Lane**

**APPLICANT:        Jennifer Paschall**

**REQUEST:**

- A special exception to the fence height regulations of 1’ 6’ is requested in conjunction with constructing and maintaining a 5’ 6” high open wrought iron picket fence in the site’s Nashwood Lane 30’ required front yard on a site developed with a single family home. (No part of this application is made to construct and/or maintain a fence higher than 4’ in the site’s Allencrest Lane required front yard).

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-16(A) (Single family 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 home. The areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

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

**Timeline:**

- July 9, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 16, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 30 & September 7, 2012: The applicant submitted additional information beyond what was submitted with the original application (see Attachments A and B).

September 4, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, Building Inspection Chief Planners, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

### **GENERAL FACT /STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a 5' 6" high open wrought iron picket fence in the site's Nashwood Lane 30' required front yard on a site developed with a single family home.
- The subject site is a corner lot zoned R-16(A) with two street frontages of unequal distance. The site is located at the northwest corner of Allencrest Lane and Nashwood Lane. Even though the Allencrest Lane frontage appears to function as its front yard and the Nashwood Lane frontage appears to function as its side yard, the subject site has two required front yards created by platted building lines: a 45' required front yard along Allencrest Lane and a 30' required front yard along Nashwood Lane.
- The site's Allencrest Lane frontage is a required front yard since it is the shorter of the two frontages which is always deemed the front yard setback on a corner lot of unequal frontage distance in a single family zoning district. The site's Nashwood Lane frontage is a required front yard since the continuity of the established front yard setback along this street created by one lot north fronting this street must be maintained – a front yard that carries across the Nashwood Lane side of the site to where it meets Allencrest Lane. (If it were not for the one lot north of the subject site, this longer street frontage on the site would be deemed a side yard where a 9' high fence can be constructed/maintained per code).
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a revised site plan (see Attachment A) and a partial elevation that shows the proposal in the Nashwood Lane required front yard reaching a maximum height of 5' 6".
- The following additional information was gleaned from the submitted revised site plan:
  - Approximately 110' in length parallel to Nashwood Lane (and approximately 15' in length perpendicular on the north and south sides of the site in the required front yard), approximately 15' from the Nashwood Lane front property line/pavement line where one home would have direct/indirect frontage to the proposal.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other *front yard* fences higher than 4' were noted in the immediate area.

However, a fence higher than 4' was noted immediately south– a fence about 6' in height that appears to be located in this property's side yard.

- As of September 10, 2012, 16 letters had been submitted to staff in support of the request and no letters had been submitted opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 5' 6" in height) will not adversely affect neighboring property.
- Granting this special exception of 1' 6" with a condition imposed that the applicant complies with the submitted revised site plan and elevation would require the proposal exceeding 4' in height in the Nashwood Lane required front yard to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION:    SEPTEMBER 19, 2012**

**APPEARING IN FAVOR:**                    Jennifer Paschall, 4931 Allencrest Lane, Dallas, TX

**APPEARING IN OPPOSITION:**    No one

**MOTION:    Gillespie**

I move that the Board of Adjustment grant application **BDA 112-087** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following 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:    Wilson**

**AYES: 4– Reynolds, Gillespie, Chernock, Wilson**

**NAYS: 0 –**

**MOTION PASSED 4 – 0 (unanimously)**

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**FILE NUMBER:**    BDA 112-090

**BUILDING OFFICIAL'S REPORT:**

Application of Rob Baldwin for a special exception to the fence height regulations at 4833 Walnut Hill Lane. This property is more fully described as Lot 5 in City Block 3/5531 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain a 9 foot 6 inch high fence, which will require a special exception of 5 feet 6 inches.

**LOCATION:**                    4833 Walnut Hill Lane

**APPLICANT:**                Rob Baldwin

**REQUEST:**

- A special exception to the fence height regulations of 5’ 6’ is requested in conjunction with replacing an existing wooden fence with a solid masonry wall of the same height (ranging from approximately 5’ – 7’ in height) with a 6’ 3’ high metal gate and columns (ranging from approximately 6’ – 7.5’ in height) atop an existing retaining wall (ranging from approximately 1’ 6” – 3’ in height) on a site being developed with a single family home. The maximum height requested/denoted on the submitted elevation is 9’ 6” which is the height of the proposed entry gate columns combined with the height of the existing retaining wall.

**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 being developed with a single family home. The areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

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| <ol style="list-style-type: none"> <li>1. BDA 067-013, Property at 10011 Strait Lane ( the property immediately east of the subject site)</li> </ol> | <p>On February 14, 2007, the Board of Adjustment Panel B granted requests for special exceptions to the fence height of 5’ 6” and visual obstruction regulations and imposed the submitted revised site plan/elevation, and the submitted landscape plan (with regard to the landscape materials</p> |
|--|--|

indicated on this plan on the street-side of Walnut Hill Lane) as conditions to these requests. The case report stated that the fence height special exception requests were made to construct/maintain in the site's 40' front yard setback along Strait Lane: both an 8' high solid stucco wall with 9' high columns (about 28' in length) and a 6' high open iron fence with 7' high columns, and two 9' high open iron gates with 9.5' high entry columns (about 128' in length); and in this site's 40' front yard setback along Walnut Hill Lane: an 8' high solid stucco wall with 9' high stucco columns, and an 8.5' high solid iron gate (with 9.5' high columns; and that a special exception to the visibility obstruction regulations was made to construct and maintain portions of the 8' solid stucco wall with approximately 9' high stucco columns in the site's 45 visibility triangle at the intersection of Strait Lane and Walnut Hill Lane.

2. BDA 87-246, Property at 10015 Lennox Lane (the lot west of the subject site)

On November 10, 1987, the Board of Adjustment granted a request for a fence height special exception of 3' and imposed the following condition: "Submit a revised site plan showing the 55 foot visibility triangle, increasing the wrought iron along Walnut Hill Lane and tapering the level of the fence on the east side of Walnut Hill Lane from the building line to the property line. The plan should be submitted for approval on the December 8, 1987 docket." The case report stated that the request was made to construct/maintain a fence that was to be a combination of solid brick panels and wrought iron/brick panels along Walnut Hill Lane, and wrought iron with brick columns along Lennox Lane.

3. BDA 056-122, Property at 4722 Walnut Hill Lane (the lot south of the subject site)

On April 19, 2006, the Board of Adjustment Panel B granted a request for a fence height special exception of 4' 10" and imposed the submitted site plan and fence elevation as a condition to this request. The case report stated that the request was made to maintain an 8' high solid stucco fence with 8'

10" stucco columns and 8' metal gates in the front yard setback on a site that is developed with a single family house

**Timeline:**

July 31, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 16, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 4, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, Building Inspection Chief Planners, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

September 7, 2012: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

**GENERAL FACT /STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a solid masonry wall (ranging from approximately 5' – 7' in height) with columns (ranging from approximately 6' – 7.5' in height) atop an existing retaining wall (ranging from approximately 1' 6" – 3' in height) on a site being developed with a single family home. The maximum height requested/denoted on the submitted elevation is 9' 6' which is the height of the proposed entry gate columns combined with the height of the existing retaining wall.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all

residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.

- The applicant had submitted a site plan and elevation that shows the proposal in the front yard setback reaching a maximum height of 9' 6".
- The following additional information was gleaned from the submitted site plan:
  - Approximately 220' in length parallel to Walnut Hill Lane, approximately 1' from the front property line and 14' from the pavement line where no home would have direct/indirect frontage to the proposal since the lots immediately south of the site face southward onto Straight Lane. (The entry way is recessed from the street at a location about 13' from the front property line and about 21' from the pavement line).
- The Board Administrator conducted a field visit of the site and surrounding area along Walnut Hill Lane (approximately 500' east and west of the subject site) and noted the following fences above four (4) feet high which appeared to be located in the front yard setback (Note that the following dimensions and descriptions are *approximate* heights):
  - An 8' high solid brick wall with 9' high columns behind a full hedge west of the subject site. (This Board of Adjustment granted a fence special exception on this site in November of 1997 to construct/maintain a fence that was to be a combination of solid brick panels and wrought iron/brick panels along Walnut Hill Lane, and wrought iron with brick columns along Lennox Lane (BDA 87-246).
  - An 8' high solid stucco wall with 9' high stucco columns, and an 8.5' high solid iron gate with 9.5' high columns east of the site – a fence that appears to be the result of a fence height special exception request in 2007- BDA 067-013.
  - An 8' high solid stucco fence with 8' 10" stucco columns and 8' metal gates south of the site – a fence that appears to be the result of a fence height special exception request in 2006- BDA 056-122.
- As of September 12, 2012, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 9' 6" in height) will not adversely affect neighboring property.
- Granting this special exception of 5' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION:    SEPTEMBER 19, 2012**

APPEARING IN FAVOR:                    No one

APPEARING IN OPPOSITION:    No one

MOTION:    **Gillespie**

I move that the Board of Adjustment grant application **BDA 112-090** 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: Wilson**

**AYES:** 4– Reynolds, Gillespie, Chernock, Wilson

**NAYS:** 0 –

**MOTION PASSED** 4 – 0 (unanimously)

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**FILE NUMBER:** BDA 112-091

**BUILDING OFFICIAL’S REPORT:**

Application of Clyde R. Lee, represented by Michael Warner, for special exceptions to the fence height regulations and visual obstruction regulations at 6109 Orchid Lane. This property is more fully described as Lot 1 in City Block 5/5499 and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct/maintain an 8 foot 2 inch high fence and to locate/maintain items in required visibility triangles, which will require a special exception to the fence regulations 4 feet 2 inches and special exceptions to the visual obstruction regulations.

**LOCATION:** 6109 Orchid Lane

**APPLICANT:** Clyde R. Lee  
Represented by Michael Warner

**REQUESTS:**

- The following appeals had been made in this application on a site that is developed with a single family home:
  1. special exceptions to the fence height regulations of 4’ 2” in conjunction with constructing and maintaining a 6’ high open wrought iron picket fence, three 7’ high arched open wrought iron picket gates, and 8’ 2” high masonry columns (6’ 8’ high masonry columns with 1’ 6” high decorative lamps atop) to be located in the site’s two 35’ front yard setbacks (Orchid Lane and Camellia Drive), and
  2. special exceptions to the visual obstruction regulations in conjunction with locating and maintaining portions of the open wrought iron fence and masonry columns in the two 20’ visibility triangles on either side of the two driveways into the site from Camellia Drive, and in the two 20’ visibility triangles on either side of the driveway into the site from Orchid Lane.

**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 exceptions):**

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections” to the requests.
- The applicant has substantiated how the location of a proposed open wrought iron fence and masonry columns in the two 20’ visibility triangles on either side of the two driveways into the site from Camellia Drive, and in the two 20’ visibility triangles on either side of the driveway into the site from Orchid Lane do not constitute traffic hazards.

**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: PD 553 (Planned Development)  
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 home. The areas to the north, east, and west are developed with single family uses; and the area to the south is developed as a private school (St. Mark’s School of Texas).

**Zoning/BDA History:**

1. BDA 067-093, Property at 10727 Camellia Drive ( the property immediately north of the subject site)

On August 13, 2007, the Board of Adjustment Panel C granted requests for special exceptions to the fence height of 4' 4" and visual obstruction regulations and imposed the submitted site plan and elevation as a condition to these requests. The case report stated that the special exception to the fence height regulations of 4' 4" were requested in conjunction with maintaining a 5' 10" high open wrought iron fence; an 8' 4" high open wrought iron gate; and an 8' high solid cedar plank wall with 8' 4" high columns the following in the site's 35' front yard setback; and that the special exceptions to the visibility obstruction regulations were requested in conjunction with maintaining portions of the open wrought iron fence and gates in the site's six 20' visibility triangles at the three drive approaches into the site from Mum Place and Camellia Drive, in the site's 20' visibility triangle at the intersection of the alley and Mum Place, and in the site's 45' visibility triangle at the intersection of Mum Place and Camellia Drive. The case report noted that these appeals were made to maintain the same fence, wall, and gates that exceeded the maximum fence height and visibility obstruction regulations on the subject site (and the separately platted lot immediately adjacent that is owned by the same person as the subject site) that were filed in 2005: BDA045-275 – requests for special exceptions to the fence height and visibility obstruction regulations on these lots that the Board of Adjustment Panel C denied in November of 2005 without prejudice.

The minutes for this application noted that the applicant acknowledged receipt of the case report on this matter, that the board was only considering the existing fence/wall/gates/columns located on Lot 1 of City block 2/5499, and that the existing fence on Lot 2 of City block 2/5499 (which he owns as well) in a front yard setback higher than 4' in height would have to be brought into compliance with the code or sought to be remedied by a separately filed application to

the board of adjustment. The applicant submitted photos of the fence/wall/gates on subject site.

2. BDA 045-275, 10727 and 10735 Camellia Drive (the subject site and the lot immediately north, Lots 1 and 2 of City Block 2/5499)

On November 14, 2005, the Board of Adjustment Panel C denied a request for a special exception to the fence height regulations of 3' 5" and a special exception to the visibility obstruction regulations without prejudice. The case report stated that the requests were made to maintain an 8' high wood fence with 8' 5" high stucco and concrete brick columns, and a 5' 10" high wrought iron fence with 6' 6" high wrought iron posts with 8' 4" high wrought iron gates in the 35' Camellia Drive front yard setback; and to maintain the above referenced fence and gates located in the 45' visibility triangle at the Camellia Drive and Mum Place intersection, and in nine 20' visibility triangles on Mum Place and Camellia Drive.

**Timeline:**

- August 8, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 16, 2012: 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 August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- September 4, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current

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

September 10, 2012: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

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

- These requests focus on constructing and maintaining a 6' high open wrought iron picket fence, three 7' high arched open wrought iron picket gates, and 8' 2" high masonry columns (6' 8" high masonry columns with 1' 6" high decorative lamps atop) to be located in the site's two 35' front yard setbacks (Orchid Lane and Camellias Drive).
- The subject site is a corner lot zoned R-16(A) with two street frontages of unequal distance. The site is located at the northeast corner of Orchid Lane and Camellia Lane.
- The site has a front yard setback along Orchid Lane as the shorter of the two frontages is always deemed the front yard setback on a corner lot of unequal frontage distance. The site's Camellia Drive frontage is deemed a front yard as well to maintain the continuity of the established front yard setback along this street because of the lot northeast that fronts Camellia Drive – a front yard that carries across the subject site along Camellia Drive to where it meets Orchid Lane; otherwise, this street frontage would be deemed a side yard where a 9' high fence can be constructed/maintained per code.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had submitted a site plan and elevation indicating that the proposal in the Orchid Lane and Camellia Drive front yard setbacks reaches a maximum height of approximately 8' 2".
- The following additional information was gleaned from the submitted site plan:
  - About 130' in length parallel along Orchid Lane (and approximately 34' perpendicular on the east side in this front yard setback), approximately 1' from on the front property line and about 14' from the pavement line where no single family home fronts this proposal – immediately to the south is a surface parking lot for the St. Mark's School of Texas).
  - Approximately 200' in length along Camellia Drive, approximately 1' from the front property line and about 14' from the pavement line where a single family home is located across the street but fronts southward to Orchid Lane.
- The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences higher than 4' in the immediate area in what appears to be a

front yard setback – one of which (an approximately 6’ high open wrought iron fence immediately north) that appears to be a result of a granted fence height special exception request (BDA 067-093), and another (an approximately 10 high solid board fence two lots immediately north) that appears to have no recorded BDA history.

- As of September 10, 2012, no letters had been submitted in support or opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 4’ 2” will not adversely affect neighboring property.
- Granting this special exception of 4’ 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 Orchid Lane and Camellias Drive front yard setbacks to be constructed and maintained in the location and of the heights and materials as shown on these documents.

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

- These request focus on locating and maintaining portions of the aforementioned open wrought iron fence and masonry columns in the two 20’ visibility triangles on either side of the two driveways into the site from Camellia Drive, and in the two 20’ visibility triangles on either side of the driveway into the site from Orchid Lane.
- The Dallas Development Code states the following with regard to visibility triangles: 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 intersections and 20-foot visibility triangles at drive approaches); and
  - between 2.5 – 8 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 elevation has been submitted indicating approximately 6 foot lengths of an open wrought iron fence/masonry columns in each of the two 20’ visibility triangles on either side of the two driveways into the site from Camellia Drive, and in the two 20’ visibility triangles on either side of the driveway into the site from Orchid Lane.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain portions of the open wrought iron fence and masonry columns in the two 20’ visibility triangles on either side of the two driveways into the site from Camellia Drive, and in the two 20’ visibility triangles on either side of the driveway into the site from Orchid Lane will not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation document would require that the items in the aforementioned visibility triangles to be limited to the locations, heights, and materials of those items as shown on these documents.

### **BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2012**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gillespie**

I move that the Board of Adjustment grant application **BDA 112-091** 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: **Wilson**

AYES: 4– Reynolds, Gillespie, Chernock, Wilson

NAYS: 0 –

MOTION PASSED 4 – 0 (unanimously)

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MOTION: **Wilson**

I move to adjourn this meeting.

SECONDED: **Chernock**

AYES: 4– Reynolds, Gillespie, Chernock, Wilson

NAYS: 0 –

MOTION PASSED 4 – 0 (unanimously)

**1:10 P.M.** - Board Meeting adjourned for **September 19, 2012.**

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CHAIRPERSON

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BOARD ADMINISTRATOR

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BOARD SECRETARY

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