

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, SEPTEMBER 17, 2007

Briefing: 10:30 A.M. 5ES
Public Hearing: 1:00 P.M. COUNCIL CHAMBERS

Purpose: To take action on the attached agenda, which contains the following:

- 1) Zoning Board of Adjustment appeals of cases the Building Official has denied.
- 2) And any other business that may come before this body and is listed on the agenda.

*** All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

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09-17-2007

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, SEPTEMBER 17, 2007
AGENDA

BRIEFING	5ES	10:30 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

Donnie Moore, Chief Planner
Steve Long, Board Administrator
Jennifer Hironoto, Senior Planner

MISCELLANEOUS ITEM

Approval of the Monday, August 13, 2007 Board of Adjustment Public Meeting Minutes	M1
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UNCONSTESTED CASES

BDA 067-130	1001 Belleview Street (AKA 913 Belleview Street) REQUEST: Application of Belleview Condo Associates I, Ltd., represented by Roger Albright, for a special exception to the parking regulations	1
BDA 067-131	454 W Greenbriar Lane REQUEST: Application of Eric Tschetter for a variance to the front yard setback regulations	2
BDA 067-136	412 N. Clinton Avenue REQUEST: Application of Rick William Walters for a variance to the maximum lot coverage regulations	3

HOLDOVER CASES

BDA 056-234(J)	4060 Buena Vista REQUEST: Application of Paul Stanzel represented by Robert Baldwin for a special exception to the landscaping regulation and a special exception to the visibility obstruction regulations	4
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BDA 067-082 5404 Walnut Hill Lane 5
REQUEST: Application of Michael Dees for a special
exception to the fence height regulations

REGULAR CASE

BDA 067-129 2999 Turtle Creek Boulevard 6
REQUEST: Application of Pittman Haymore for a
special exception to the landscape regulations and
for variances to the front yard setback regulations

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C August 13, 2007 public hearing minutes.

FILE NUMBER: BDA 067-130

BUILDING OFFICIAL'S REPORT:

Application of Belleview Condo Associates I, Ltd., represented by Roger Albright, for a special exception to the parking regulations at 1001 Belleview Street. This property is more fully described as Lot 1 in City Block A/420 and is zoned PD-317 (Subdistrict 3A) which requires parking to be provided. The applicant proposes to construct a structure for residential use and provide 102 of the 120 spaces required which will require a special exception to the off-street parking regulations of 18 spaces.

LOCATION: 1001 Belleview Street

APPLICANT: Belleview Condo Associates I, Ltd.
Represented by Roger Albright

REQUEST:

- A special exception to the off-street parking regulations of 18 parking spaces (or 15% of the required off-street parking) is requested in conjunction with completing and maintaining a 75 unit condominium development.

STAFF RECOMMENDATION:

Approval, subject to the following conditions:

- The special exception of 18 spaces automatically and immediately terminates if and when the multifamily use on the site is changed or discontinued.

Rationale:

- The Development Services Senior Engineer supports the request based on the fact that the site is in close proximity to a light rail station, that 18 tandem parking spaces would be used exclusively by the owners of the residential units, and the parking analysis submitted by the applicant.

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 already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- 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.

GENERAL FACTS:

- The Dallas Development Code states that 1 off-street parking space is required for each 500 square feet of dwelling unit floor area within the building site. The code also states that not less than one space nor more than two spaces are required for each dwelling unit in a multifamily structure over 36 feet in height. In addition, a 20% parking reduction is allowed on lots located in PD No. 317 (Subdistrict 3A: Transit-oriented High Density Mixed Use) if there are enhanced

pedestrian amenities in the enhanced pedestrian amenities area connecting the lot to the DART light rail station.

According to the Building Official's Report and information submitted by the applicant, 102 of the required 120 required off-street parking spaces are proposed to be provided. (Note that the 120 required spaces reflect the 20% reduction that applies to the development on the subject site given that the applicant is proposing to provide enhanced pedestrian amenities in the enhanced pedestrian amenities area connecting the site to the DART light rail station immediately east). According to the application, 120 parking spaces are required whereby 18 of these required spaces will be provided on the site as tandem spaces (where one space is located behind the other). These 18 provided tandem spaces are not recognized by the City as provided off-street parking spaces, hence the request for a special exception to the parking regulations of 18 spaces.

- The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A). This information included a technical memorandum prepared by a traffic/parking consultant.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 317 (Planned Development)
North: PD No. 317 (Planned Development)
South: PD No. 317 (Planned Development)
East: PD No. 317 (Planned Development)
West: PD No. 317 (Planned Development)

Land Use:

The subject site is currently under development as a condominium tower. The areas to the north, east, and south are developed with what appears to be office/warehouse uses; and the area immediately west is developed with a surface parking lot.

Zoning/BDA History:

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

Timeline:

July 20, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- August 21, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request as well as the board's documentary evidence rule of procedure;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 22, 2007 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).
- August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- Sept. 7, 2007 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections" with the following comments:
1. "Close proximity o the Cedars Light Rail Station.
 2. 18 tandem parking spaces (15% of the total 35% reduction) would be used exclusively by residential unit owners.
 3. Parking analysis dated 8/2/07."

STAFF ANALYSIS:

- 85 percent of the required off-street parking spaces is proposed to be provided in conjunction with completing and maintaining a 75-unit multifamily tower on the site. (The remaining 15 percent of the required parking spaces are in a sense being provided on the site as tandem parking spaces – spaces that the City does not technically recognize as off-street parking spaces).
- Granting this request, subject to the condition that the special exception of 18 spaces automatically and immediately terminates if and when multifamily use is

changed or discontinued, would allow the completion of the condominium tower with 18 less spaces than what is required by ordinance and code.

- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the multifamily use does not warrant the number of off-street parking spaces required, and
 - The special exception of 18 spaces (or 15% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- The Development Services Senior Engineer has commented that he has no objections to this request based on the fact that the site is in close proximity to a light rail station, that 18 tandem parking spaces would be used exclusively by the owners of the residential units, and the parking analysis submitted by the applicant.

FILE NUMBER: BDA 067-131

BUILDING OFFICIAL'S REPORT:

Application of Eric Tschetter for a variance to the front yard setback regulations at 454 W. Greenbriar Lane. This property is more fully described as Lot A in City Block 6/4640 and is zoned R-7.5(A) which requires a front yard setback of 25 feet. The applicant proposes to construct a residential structure and provide a 5 foot front yard setback which will require a variance to the front yard setback regulations of 20 feet.

LOCATION: 454 W. Greenbriar Lane

APPLICANT: Eric Tschetter

REQUEST:

- A variance to the front yard setback regulations of 20' is requested in conjunction with constructing and maintaining a bedroom/bath addition in the site's Woodlawn Avenue 25' front yard setback. The proposed addition would connect an existing single family home to an existing detached garage both of which are located in the Woodlawn Avenue front yard setback as well.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The site is different from other parcels of land in that it has two 25' front yard setbacks (one along W. Greenbriar Lane, another along Woodlawn Avenue). The two front yard setbacks leave only 30' of developable space left on the 60' wide site once a 25' front yard setback is accounted for on the west side of the site, and a 5' side yard setback is accounted for on the east side of the site.
- The variance appears to allow development of the site in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification. The applicant has provided information documenting that the total living area of the house with the proposed addition will be 1,844 square feet with a 440 square foot detached garage where according to calculations taken from the applicant's submitted information, the average living area of the nine other homes in the area is 2,500 square feet, and the average garage area is 506 square feet.
- Granting the variance does not appear to be contrary to the public interest in that the addition appears to be only about 2' – 3' further into the site's Woodlawn Avenue

front yard setback than the existing house and garage on the site constructed in the 40s.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'. The site is located at the southeast corner of W. Greenbriar Lane and Woodlawn Avenue and has two front yard setbacks: one along W. Greenbriar Lane (the shorter of the lot's two frontages), and the other along Woodlawn Avenue (the longer of the two frontages but a front yard setback nonetheless in order to maintain continuity of the established setback of a home directly south that fronts westward onto Woodlawn Avenue).
A scaled site plan has been submitted that shows that the addition will be located 5' from the site's Woodlawn Avenue front property line (or 20' into the 25' front yard setback). This site plan shows that the existing house on the site is located as close as 7' from the front property line and the detached garage is located as close as 8' from the property line. These existing structures are most likely deemed to be nonconforming structures since they were built, according to DCAD, in 1947. The applicant has been apprised of the nonconforming structure provisions in the Dallas Development Code and has chosen to not seek variances to remedy the existing structures given that unless intentionally destroyed by the owner or his agent, nonconforming structures can be renovated, repaired, rebuilt, or enlarge if the work does not cause the structure to become more nonconforming to as to the yard, lot, and space regulations.
- According to the submitted site plan, the existing house encompasses 1,290 square feet, the porch encompasses 112 square feet, and the garage encompasses 440 square feet. The site plan denotes that the addition will total 650 square feet with the net result being 1,844 square feet of total living area and a 2,492 square foot "house footprint." According to calculations taken from the site plan by the Board Administrator, approximately 380 square feet (or 16' x 24') of the approximately 560 square foot addition is located in the site's Woodlawn Avenue 25' front yard setback.

- The site is somewhat sloped, rectangular in shape (approximately 190' x 60') and 11,400 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The site has two 25' front yard setbacks. (No encroachment is shown or requested to be located in the site's Greenbriar Lane 25' front yard setback).
- Once a 25' front yard setback is accounted for on the west and a 5' side yard setback is accounted for on the east the developable width remaining on the 60' wide site is 30'.
- DCAD records indicate that the site is developed with the following:
 - a single family home in average condition built in 1947 with 1,326 square feet of living space; and
 - a 440 square foot detached garage.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A). This information included a document that provided the size of the existing/proposed development on the site along with the sizes of nine other homes located either on W. Greenbriar Lane or Woodlawn Avenue.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5ac (A) (Single family district 7,500 square feet)
North: R-7.5ac (A) (Single family district 7,500 square feet)
South: R-7.5ac (A) (Single family district 7,500 square feet)
East: R-7.5ac (A) (Single family district 7,500 square feet)
West: R-7.5ac (A) (Single family district 7,500 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 26, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- August 16, 2007: The Board Administrator contacted the applicant and shared the following information by phone and email:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 22, 2007: The applicant submitted information beyond what was submitted with the original application (see Attachment A).
- August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The location of one single family home immediately south of the subject site (oriented westward towards Woodlawn Avenue) creates a situation on the subject site whereby its Woodlawn Avenue frontage is deemed a front yard with a 25' setback as opposed to a side yard with a 5' setback. (The proposed bedroom/bathroom addition would comply with setback regulations if the site's Woodlawn Avenue frontage were deemed a side yard).
- The bedroom/bathroom addition that is proposed to encroach into the site's 25' front yard setback on Woodlawn Avenue would extend about 2' – 3' beyond an existing house and detached garage that are located in the Woodlawn Avenue front yard setback – structures that are most likely nonconforming structures since, according to DCAD, these structures were constructed in 1947.
- The site is somewhat sloped, rectangular in shape (approximately 190' x 60') and 11,400 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500

square feet in area. The site has two 25' front yard setbacks where no encroachment is shown or requested to be located in the site's Greenbriar Lane 25' front yard setback.

- Once a 25' front yard setback is accounted for on the west and a 5' side yard setback is accounted for on the east, the developable width remaining on the 60' wide site is 30'.
- According to calculations taken from the site plan by the Board Administrator, approximately 380 square feet (or 16' x 24') of the approximately 560 square foot addition is located in the site's Woodlawn Avenue 25' front yard setback.
- According to information submitted by the applicant, the total living area of the house with the addition will be 1,844 square feet with a 440 square foot detached garage. (According to calculations taken by the Board Administrator from the applicant's submitted information, the average living area of the nine other homes that he found on DCAD is 2,500 square feet, and the average garage area is 506 square feet).
- The applicant has the burden of proof in establishing the following related to the front yard variance request:
 - That granting the variance to the front yard setback regulations of 20' requested in conjunction with constructing/maintaining a bedroom/bathroom addition that would connect a single family home to a detached garage in the site's Woodlawn Avenue front yard setback will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site (a site that is according to DCAD developed with a single family structure with a detached garage, and a site that is somewhat sloped, rectangular in shape (approximately 190' x 60') and 11,400 square feet in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5 (A) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the R-7.5(A) zoning classification.
- If the Board were to grant the front yard variance request of 20', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the front yard setback would be limited to that shown on this plan – which in this case is an addition structure located 5' from the site's Woodlawn Avenue front property line (or 20' into one of the site's two 25' front yard setbacks).

FILE NUMBER: BDA 067-136

BUILDING OFFICIAL'S REPORT:

Application of Rick William Walters for a variance to the maximum lot coverage regulations at 412 N. Clinton Avenue. This property is more fully described as Lot 2 in City Block 11/3259 and is zoned PD-87(Tr. I) which limits the maximum permitted lot coverage for all buildings and structures combined to 35 percent. The applicant proposes to construct and maintain a structure whereby the total lot coverage on the lot would be 40 percent which will require a variance to the lot coverage regulations of five percent.

LOCATION: 412 N. Clinton Avenue

APPLICANT: Rick William Walters

REQUEST:

- A variance to the maximum lot coverage regulations of five percent is requested in conjunction with completing and maintaining a detached four-vehicle garage structure on a site developed with a four-unit apartment structure.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted survey plat/site plan is required.

Rationale:

- The variance would allow the development of the site in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 87 zoning classification. The five percent lot coverage variance would merely allow the applicant to provide a one-vehicle garage space for each of the four units in the existing historic 1920s four-plex.
- The five percent lot coverage variance would allow 40 percent coverage of the lot, which is still 20 percent less coverage allowed in the lowest/least intense multifamily zoning district of the Dallas Development Code. (MF-1(A) zoning districts allow 60 percent lot coverage).
- Granting the request does not appear to be contrary to the public interest: the Development Services Historic Preservation Senior Planner has submitted a Review Comment Sheet marked "Has no objections" commenting that the staff and Landmark Commission support the parking structure size and the variance for lot coverage, and that the accessory structure is properly sized for this property developed with an historic four-plex.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- The maximum permitted lot coverage for all buildings and structures combined on lots zoned PD 87 (Tract 1) is 35%. (The Dallas Development Code defines coverage as the percentage of a lot area covered by roof, floor, or other structure, except that roof eaves up to 24 inches and other ordinary building projections up to 12 inches are excluded).
A survey plat/site plan has been submitted indicating 2,988 square feet of coverage (2,068 square feet of “two story brick res.” and 920 square feet of “proposed structure” which is the garage that is, according to the applicant, about 60% complete) on a 7,500 square foot lot.
- The site is flat, rectangular in shape (150’ x 50’) and 7,500 square feet in area. The site is zoned PD No. 87.
- DCAD records indicate that the site is developed with a structure in good condition built in 1921 with 3,888 square feet of living space.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD No. 87, H-15 (Planned Development District, Historic)
<u>North:</u>	PD No. 87, H-15 (Planned Development District, Historic)
<u>South:</u>	PD No. 87, H-15 (Planned Development District, Historic)
<u>East:</u>	PD No. 87, H-15 (Planned Development District, Historic)
<u>West:</u>	PD No. 87, H-15 (Planned Development District, Historic)

Land Use:

The subject site is developed with an apartment structure. The area to the north is developed with a multifamily structure, and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. CA067-243, 412 N. Clinton Avenue (the subject site)

On March 5, 2007, the City of Dallas Landmark Commission approved a CA (Certificate of Appropriateness) for a garage. The commission imposed the following condition: "Roof to match hip roof on main house. Siding to be 6 inch wood lap. Paint colors to match house. A variance for lot coverage will be required. This property is an historic apartment and this size garage is appropriate. Ordinance #18369 Section (9)(a)(1). Accessory buildings must be compatible with the scale, shape, roof form, materials, detailing and color of the main building. Roof hip to match house."

Timeline:

- July 26, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 16, 2007: The Board Administrator contacted the applicant and shared the following information by phone and email:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and

testimony presented to them by the applicant and all other interested parties.

August 21, 2007: The Development Services Historic Preservation Senior Planner submitted a Review Comment Sheet marked "Has no objections" with the following comments: "The staff and Landmark Commission support the parking structure size and the variance for lot coverage. This is an historic 4-plex and the accessory structure is properly sized for this property."

August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

STAFF ANALYSIS:

- The site is located in PD No. 87 where the maximum lot coverage is 35 percent or 25 percent lower than the maximum lot coverage of 60 percent permitted in the lowest/least intense multifamily zoning district: MF-1(A). According to the Chief Planner of Administration who was instrumental in creating PD No. 87 in the early 80s, the base zoning district from which its development standards were based upon was the R-7.5 zoning classification. (The premise of PD No. 87 was to allow the existing multifamily structures in the predominantly single family use area to remain but not to allow a continuation of new multifamily development in the PD area).
- The site is flat, rectangular in shape (150' x 50') and 7,500 square feet in area, and developed, according to DCAD records, with a structure in good condition built in 1921 with 3,888 square feet of living space.
- The applicant has the burden of proof in establishing the following related to the maximum lot coverage variance request:
 - That granting the variance to the maximum lot coverage regulations of five percent requested in conjunction with completing/maintaining a detached 920 square foot, four-vehicle garage structure will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site (a site that is according to DCAD developed with a structure built in 1921 with 3,888 square feet of living area, and is flat, rectangular in shape (150' x 50') and 7,500 square feet in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 87 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 87 zoning classification.

- If the Board were to grant the maximum lot coverage variance request of five percent, imposing a condition whereby the applicant must comply with the submitted survey plat/site plan, the garage structure could be completed and maintained on the site whereby the lot coverage allowed on the site would be 40 percent.

FILE NUMBER: BDA 056-234(J)

BUILDING OFFICIAL'S REPORT:

Application of Paul Stanzel represented by Robert Baldwin for a special exception to the landscaping regulation and a special exception to the visibility obstruction regulations at 4060 Buena Vista Street. This property is more fully described as Lot 8 in City Block A/1514 and is zoned PD-193(MF-2), which requires mandatory landscaping and requires a 30 foot visibility triangle at street intersections and a 20 foot visibility triangle at driveway to street intersections. The applicant proposes to maintain a multifamily residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and encroach into the street intersection visibility obstruction triangle and the driveway to street intersection visibility obstruction triangles, which will require a special exception to the visibility obstruction regulations.

LOCATION: 4060 Buena Vista Street

APPLICANT: Paul Stanzel
Represented by Robert Baldwin

REQUESTS:

A special exception to the landscape regulations and a special exception to the visibility obstruction regulations are requested in conjunction with maintaining multifamily residential structure.

STAFF RECOMMENDATION (Landscape Special Exception):

Approval

Rationale:

- The City's Chief Arborist recommends approval of the request, if certain conditions are met.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS
IN OAK LAWN:**

Section 26(a)(4) of Ordinance No. 21859, which establishes PD No. 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION (visibility obstruction):

Approval

Rationale:

- The Development Services Senior Engineer submitted a comment sheet stating that he does not object.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS:

- At the time of the application, the request site was developed with two multifamily structures and a third multifamily structure was under construction. It appears that the third multifamily structure is completely constructed. The third building cannot receive its final inspection for the building permit until the landscaping and visibility obstruction issues are resolved.
- The Dallas Development Code requires full compliance with the Landscape Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
- The applicant proposed an alternate landscape plan with the original application that did not fully comply with the landscape regulations, where, according to the City of Dallas Chief Arborist, the applicant was specifically requesting relief from the sidewalk width and location, the quantity and location of street tree, and the required minimum percentage of the lot designated as “general planting area” requirements of the PD No. 193 ordinance.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Board of Adjustment Chief Planner (see Attachment A). The memo stated the following with regard to the originally submitted landscape plan:
 - The applicant is requesting relief from the sidewalk width and location, the quantity and location of street tree, and the required minimum percentage of the lot designated as “general planting area” requirements of the PD No. 193 ordinance.
 - The special exception request is triggered by new construction.
 - Deficiencies:
 1. The applicant is required to provide a 4’ wide sidewalk between 5’ – 10’ from the back of curb.
The applicant is proposing to provide a 4’ wide sidewalk between 7.5’ and 11.5’ along Buena Vista and located between 2.5’ and 6.5’ along the majority of Elizabeth.
 2. The applicant is required to provide (1) one 3.5” diameter street tree for every 25’ of street frontage, and each tree should be located between 2.5’ and 5’ from the back of curb: 15 street trees total.

3. The applicant is required to provide a general planting area in the amount of 1,842 square feet based on the lot area.

The applicant is providing about 1,000 square feet of general planting area.

Factors for consideration:

- Additional general planting area could be increased by changing some of the areas identified as grass to groundcover or shrubs. Three of the four street trees proposed for the tree planting zone must be removed due to visibility triangle obstructions. The proposed trees could be rearranged to be able to provide 15 trees that while within the front yard/corner yard but not in the tree planting zone would function as street trees.
- Original Recommendation:
 - Approval if the following conditions are met: revise the landscape plan to (1) maximize the general planting area provided; (2) remove the three street trees violating the visibility obstruction regulations, and (3) rearrange the trees located in the front yard and the corner side yard to be able to increase the number provided to a minimum of 15.
- Attachment C is the review comments from the Chief Arborist and the Senior Engineer. The following are updates to the landscape review comments.
 - Additional factors for consideration:
 - Amendment of the chief arborist 9/10/07: The two trees identified on the plan, in the parkway along Buena Vista St. (near the corner of Elizabeth St.), remain in the parkway. The planting area is more suitable for these trees which have become established. However, the trees are currently in violation of ordinance for maintaining visibility triangles without obstructions. The chief arborist does not contest these trees if the city engineer does not consider them as traffic hazards.
 - The plan identifies Fraser's photinias which are not currently planted. The chief arborist does not recognize any 'patterned concrete' as identified on the proposed plan on the current site.
 - Revised Recommendation:
 - If approved, the Chief Arborist recommends that the property must fully comply with the approved landscape plan within 90 days of the Board hearing. A final landscape inspection must be completed and approved by the building official prior to any final Certificate of Occupancy. All new tree plantings must be centered at least two feet from any pavement. Trees may be adjusted in close proximity to their shown location, only upon the approval of the building official, and based solely on a condition of physical site restrictions.
- The Senior Engineer's review comment sheet states he has no objections with the following comment: "site visit on 9/7/07 indicates adequate intersection (near side) sight distance due to low height of wall and good driveway sight distances due to open/low fences."
- At the March 19, 2007 Board of Adjustment hearing, the applicant's representative and staff requested that the Board hold the case indefinitely due to the additional application needed to remedy the site conditions for the visibility obstructions that was discovered after the case was scheduled for the March 19th agenda.

- The applicant's representative submitted an application for a special exception to the visibility obstruction regulations and submitted an alternate landscape plan/site plan showing the location visibility obstructions. The site plan includes copies of photos of the existing conditions where the corner clip is obstructed by a retaining wall.
- PDD No. 193 requires a 30 foot visibility triangle at street intersections and a 20 foot visibility triangle at driveway to street intersections.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
<u>North:</u>	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
<u>South:</u>	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
<u>East:</u>	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
<u>West:</u>	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)

Land Use:

The subject site is developed with a residential structure. The areas to the north, east, south, and west appear to be 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:

- Aug. 25, 2006: The applicant's representative submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Sept. 20, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- Sept. 25, 2006: The Board Senior Planner mailed the applicant's representative a letter that contained the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the October 26th deadline to submit additional evidence for staff to factor into their analysis/recommendation;

- the November 3rd deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the November public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

October 9, 2006 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the special exception to the landscape regulations (see Attachment A).

October 27, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner; the Development Services Senior Engineer, and the Assistant City Attorney to the Board.

October 27, 2006: The Board Senior Planner contacted the applicant's representative to request additional documentation showing authorization from the condominium association to make the application.

January 29, 2007: The applicant's representative submitted documentation of authorization from the condominium association to make the application.

March 19, 2007 The Board of Adjustment Panel C held the case under advisement indefinitely due to the additional application needed to remedy the site conditions for the visibility obstructions.

May 23, 2007 The applicant's representative submitted an "Application/Appeal to the Board of Adjustment" for the special exception to the visibility obstruction regulations and related documents, including documentation of authorization from the condominium association, which have been included as part of this case report.

July 19, 2007 The applicant's representative submitted a letter and photographs providing additional information regarding his request (see Attachment B).

August 21, 2007 The applicant's representative submitted the revised site plan/landscape plan.

August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the

Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

The Development Services Senior Engineer submitted a review comment sheet showing he has no objection to the special exception to the visibility obstruction regulations. The Chief Arborist submitted a review comment sheet stating his recommendation of approval (see Attachment C).

STAFF ANALYSIS:

- The applicant proposes to maintain a multifamily structure.
- An alternate landscape plan was submitted with the request where, according to the City of Dallas Chief Arborist, there were areas that would not fully comply with sidewalk width and location, quantity and location of street tree, and required minimum percentage of the lot designated as “general planting area” requirements.
- If approved, the Chief Arborist recommends that the property must fully comply with the approved landscape plan within 90 days of the Board hearing; a final landscape inspection must be completed and approved by the building official prior to any final Certificate of Occupancy; and all new tree plantings must be centered at least two feet from any pavement. Trees may be adjusted in close proximity to their shown location, only upon the approval of the building official, and based solely on a condition of physical site restrictions.
- The applicant has the burden of proof in establishing the following:
 - The special exception to the landscape regulations will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant the special exception to the landscape regulations and impose a condition that the applicant must comply with the revised site plan/landscape plan, the multifamily structure could be maintained on the site, and the site would be “excepted” from full compliance with sidewalk location, the quantity and location of street trees and required minimum percentage of general planting area requirements of the Oak Lawn PD landscape ordinance.
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visibility obstruction regulations (whereby, according to the revised site plan/landscape plan, an 28” retaining wall constructed of precast stone and an approximately 4’ wrought iron fence, four trees, and approximately eight square feet of Building 2 and approximately eight square feet Building 3) does not constitute a traffic hazard.
- The following describes the materials and locations of the visibility obstructions shown on the revised site plan/landscape plan and would be “excepted” if the Board were to grant the special exception to the visibility obstruction regulations:
 - three Live Oak trees, an 28” retaining wall constructed of precast stone and an approximately 4’ wrought iron fence in the 20’ visibility triangle at the intersection Buena Vista Street and the request site’s driveway;

- one Bald Cypress tree, one Live Oak tree, approximately eight square feet of Building 2, approximately eight square feet Building 3, and an approximately 4' wrought iron fence, in the 20' visibility triangle at the intersection Elizabeth Street and the request site's driveway; and
- one Live Oak tree, an 28" retaining wall constructed of precast stone and an approximately 4' wrought iron fence in the 30' visibility triangle at the intersection Buena Vista Street and Elizabeth Street.

FILE NUMBER: BDA 067-082

BUILDING OFFICIAL'S REPORT:

Application of Michael Dees for a special exception to the fence height regulations at 5404 Walnut Hill Lane. This property is more fully described as Lot 3 in City Block 1/5602 and is zoned R-1ac(A) which limits the height of a fence in the front yard to four feet. The applicant proposes to construct an eight foot fence in a required front yard setback which would require a four foot special exception.

LOCATION: 5404 Walnut Hill Lane

APPLICANT: Michael Dees

REQUEST:

- A special exception to the fence height regulations of 4' is requested in conjunction with constructing and maintaining generally a 7' high solid stone wall* with 8' high stone columns and two, approximately 8' high sliding electric open wrought iron gates in the site's 40' front yard setback. (The site is being developed with a single family home).

* A 16' long section of the proposal in the center of the site's approximately 175' long Walnut Hill Lane frontage is proposed to be comprised of an 8' high open wrought iron fence.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.

The applicant submitted a revised scaled site plan and a revised elevation on September 6, 2007 that denotes that the proposal will reach a maximum height of eight feet (see Attachment D).

- The following additional information regarding the proposed fence/wall was gleaned from the originally submitted site plan:
 - Approximately 176' in length parallel to the street (and approximately 22' on either side of the site perpendicular to the street in the front yard setback).
 - Ranging from 4'- 17' from the property line (or about 9' – 22' from the pavement line).
- There are approximately two single family homes that would have direct frontage to the proposed fence/wall. These homes are located across a six-lane divided major thoroughfare (Walnut Hill Lane) from the subject site, one of which has an approximately 6' solid fence in its front yard.
- In addition, the Board Administrator noted three other fences/walls in the immediate area above four feet high which appeared to be located in the front yard setback. There are approximately 5' high solid walls located immediately east and west of the site (with the fence to the east of the site having Board of Adjustment history: BDA88-096), and an approximately 7' high solid concrete wall located two lots west of the site that appears to be a result of a previous board case at this location (BDA 956-193).
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included photographs of the site and neighboring fences.
- The board conducted a public hearing on this appeal on June 11, 2007, and delayed action on this request until their August 13th public hearing. The board encouraged the applicant's representative to consider submitting (prior to/or at this public hearing) a more detailed account of landscape materials that is intended to be located adjacent to the proposed wall.
- The applicant submitted information beyond what was submitted with the original application and at the June public hearing (see Attachments B and C). This information included a revised site/landscape plan which appears to show minor amendments to the wall location on the site (a fence wall that appears to be located about 6' – 17' from the site's front property line) as well as landscape materials to be placed on either side of the proposed fence/wall; and a revised elevation that shows a wall that has been reduced in height from 8' to 7' 6" in height and added 8' high stone columns.
- The board conducted a public hearing on this appeal on August 13, 2007, and delayed action on this request until their September 17th public hearing. The Board encouraged the applicant's representative to consider submitting (prior to/or at this public hearing) a proposal with reduced heights and/or different materials (perhaps if not an entirely open metal fence, a wall with some breaks/openings of open metal material).
- The applicant submitted information beyond what was submitted with the original application and at the June and August public hearings (see Attachment D). This information included a revised site/landscape plan and elevation. According to an attachment created by the applicant, the revised site/landscape plan dated August 30, 2007 denotes added trees and vines to what was provided to the board on a site

plan dated July 16, 2007 and submitted to the board for their consideration at the August 13th public hearing. The revised elevation submitted on September 6, 2007, shows a proposal that has lowered the main masonry fence to 7' in height, and has added a 16' long section of an 8' high open wrought iron fence in the center of the site which, according to the applicant, along with the two open wrought iron gates represent 23 percent of the length of the proposal.

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:

1. BDA 956-193, 9930
Meadowbrook Drive (two lots west of the subject site)
On May 28, 1996, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 8" imposing the following condition with the request: compliance with the submitted revised landscape/site plan and elevation is required. The case report states that the request was made to construct a 7' 1" high solid concrete fence with 7' 8" high concrete columns about 2' – 7' from the Walnut Hill front property line.
2. BDA 88-096, 5414 Walnut Hill Lane (the lot immediately east of the subject site)
On September 27, 1988, the Board of Adjustment Panel granted a request for a special exception to fence height regulations of 1' 6", and imposed the following conditions: 1. The fence shall be constructed in accordance with the revised fence elevation plan submitted; 2. The pilasters shall be evenly spaced approximately 16 feet apart; 3. The fence shall be located at least 5 feet from the front property line, and the area between the fence and the street shall be landscaped; 4. The fence on the west property line shall be

3. BDA 90-023, 9995 Hollow Way
two lots immediately east of the
subject site)

eliminated; and 5. The fence shall comply with all visibility obstruction triangles. The case report states that a request was made to construct an 8' high fence; however, the board specified in their motion that the special exception was granted to erect a fence 5' 6" high.

On April 10, 1990, the Board of Adjustment granted a request for a special exception to fence height regulations of 2' and imposed the following conditions to the request: submit a revised landscape plan that indicates the wall recessed and additional landscaping as provided. The case report states that the case report was made to construct a 6' high solid masonry fence in the site's Walnut Hill front yard setback.

Timeline:

- April 23, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 17, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 17, 2007: The Board Administrator contacted with the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the May 25th deadline to submit additional evidence for staff to factor into their analysis and discuss at the staff review team meeting;
 - the June 1st deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the June public hearing after considering the information/evidence and

testimony presented to them by the applicant and all other interested parties.

May 29, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Acting Building Official, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Development Services Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.

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

May 30, 2007 The applicant submitted information beyond what was submitted with the original application (see Attachment A).

June 11, 2007: The Board of Adjustment conducted a public hearing on this appeal. The board encouraged the applicant's representative to consider submitting (prior to/or at this public hearing) a more detailed account of landscape materials that is intended to be located adjacent to the proposed wall.

June 18, 2007: The Board Administrator wrote the applicant a letter that conveyed the following information:

- the public hearing date and panel that will consider the application;
- the July 27th deadline to submit additional evidence for staff to factor into their analysis and discuss at the staff review team meeting; and
- the August 3rd deadline to submit additional evidence to be incorporated into the Board's docket materials.

July 27, 2007: The applicant submitted information beyond what was submitted with the original application and the June public hearing (see Attachment B).

July 30, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Acting Chief Arborist, and the Assistant City Attorney to the Board.

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

- August 3, 2007: The applicant submitted information beyond what was submitted with the original application, the June public hearing, and the July 30th staff review team meeting (see Attachment C).
- August 13, 2007: The Board of Adjustment conducted a public hearing on this appeal. The board encouraged the applicant's representative to consider submitting (prior to/or at this public hearing) a proposal with reduced heights and/or different materials (perhaps if not an entirely open metal fence, a wall with some breaks/openings of open metal material).
- August 21, 2007: The Board Administrator wrote the applicant a letter that conveyed the following information:
- the public hearing date and panel that will consider the application;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis and discuss at the staff review team meeting; and
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials.
- August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- Sept. 6, 2007: The applicant submitted information beyond what was submitted with the original application and at the June and August public hearings (see Attachment D).

STAFF ANALYSIS:

- A revised scaled site/landscape plan and a revised elevation has been submitted that documents the location and materials of the proposal to exceed 4' in height in the front yard setback which in this case is an approximately 176' long, generally 7' high solid stone wall with 8' high stone columns, and two, approximately 8' high open wrought iron gates. (A 16' long section of the proposal in the center of the site is shown on the submitted elevation to be an 8' high open wrought iron fence).
- There are approximately two single family homes that would have direct frontage to the proposed fence/wall. These homes are located across a six-lane divided major thoroughfare (Walnut Hill Lane) from the subject site, one of which has an approximately 6' solid fence in its front yard.

- In addition, three other fences/walls were noted in the immediate area above four feet high which appeared to be located in the front yard setback. There are approximately 5' high solid walls located immediately east and west of the site (with the fence to the east of the site having Board of Adjustment history: BDA88-096), and an approximately 7' high solid concrete wall located two lots west of the site that appears to be a result of a previous board case at this location (BDA 956-193).
- As of September 10th, two letters had been submitted in support and one letter had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' (whereby the proposal that would exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted revised site/landscape plan and revised elevation would assure that the proposed fence/wall, columns, and gates would be constructed of/maintained as/limited to the materials, heights, and location shown on these documents.

BOARD OF ADJUSTMENT ACTION: JUNE 11, 2007

APPEARING IN FAVOR: Michael Dees, 13012 Berrywood Trl, Keller, TX 76248

APPEARING IN OPPOSITION: No one

MOTION: **Boyd**

I move that the Board of Adjustment in Appeal No. **BDA 067-082**, hold this matter under advisement until **August 13, 2007**.

SECONDED: **Maten**

AYES: 4– Madrigal, Boyd, Moore, Maten

NAYS: 0–

MOTION PASSED: 4-0 (unanimously)

BOARD OF ADJUSTMENT ACTION: AUGUST 13, 2007

APPEARING IN FAVOR: Michael Dees, 3901 Airport Fwy, #312, Bedford, TX

APPEARING IN OPPOSITION: No one

MOTION #1: **Moore**

I move that the Board of Adjustment, in Appeal No. **BDA 067-082**, on application of Michael Dees, **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: **Boyd**

AYES: 2–Boyd, Moore

NAYS: 3– Madrigal, Maten, Jefferson

MOTION FAILED: 2-3

MOTION #1: **Boyd**

I move that the Board of Adjustment, in Appeal No. **BDA 067-082**, hold this matter under advisement until **September 17, 2007**.

SECONDED: **Moore**

AYES: 5– Madrigal, Boyd, Moore, Maten, Jefferson

NAYS: 0 –

MOTION PASSED: 5-0

FILE NUMBER: BDA 067-129

BUILDING OFFICIAL'S REPORT:

Application of Pittman Haymore for a special exception to the landscape regulations and for a variance to the front yard setback regulation at 2999 Turtle Creek Boulevard. This property is more fully described as Lot 4 in City Block A/1031 and is zoned PD-193(O-2) which requires mandatory landscaping and requires a front yard setback of 20 feet. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan which will require a special exception to the landscape regulations, and to construct a detached monument address sign structure in a required front yard setback for a nonresidential use and provide a 3 foot setback which will require a variance to the front yard setback regulations of 17 feet.

LOCATION: 2999 Turtle Creek Boulevard

APPLICANT: Pittman Haymore

REQUESTS:

- The following appeals have been made in this application:
 1. A special exception to the landscape regulations is requested in conjunction with constructing and maintaining an ancillary office building (with an approximately 4,000 square foot building footprint) on a lot developed with an office building (with an approximately 12,000 square foot building footprint).
 2. Variances to the front yard setback regulations of up to 17' are requested in conjunction with constructing and maintaining a sign structure in two of the site's three 20' front yard setbacks along Turtle Creek Boulevard and Dickason Avenue.

STAFF RECOMMENDATION (related to the landscape special exception):

Approval, subject to the following condition:

- Compliance with the revised planting plan submitted to/stamped by the City on 9-7-07 is required.

Rationale:

- The City's Chief Arborist recommends approval of this request whereby if the condition mentioned above is imposed, the special exception would not compromise the spirit and intent of the landscaping requirements of PD No. 193.

STAFF RECOMMENDATION (related to the variances):

Denial

Rationale:

- Although the site is moderately sloped, somewhat irregular in shape (L-shaped), and according to the application, 2.47 acres in area, these physical features do not preclude the applicant from developing the parcel of land/subject site in a manner commensurate with development found on other PD No. 193 (O-2 Subdistrict) zoned lots.
- The applicant has not substantiated how the site's restrictive area, shape and/or slope preclude it from being developed (in this case, with, among other things, a sign structure that could meet the applicable development standards including the 20' front yard setbacks) in a manner commensurate with development found on other PD No. 193 (O-2 Subdistrict) zoned lots.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:

Section 26(a)(4) of Ordinance No. 21859, which establishes PD No. 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS (related to the landscape special exception):

- PD No. 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or

destroyed by fire, explosion, flood tornado, riot, act of the public enemy, or accident of any kind.

The applicant submitted a revised "planting plan" that, according to the City of Dallas Chief Arborist, is deficient in meeting the street tree and sidewalk location requirements of the PD No. 193 landscape regulations.

- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Board of Adjustment Chief Planner pertaining to the submitted revised planting plan (see Attachment H). The memo stated the following:
 - The special exception request is triggered by new construction. Under PD 193, the previous approved landscape plan no longer applies when there is an addition of floor area to a property.
 - Deficiencies:
 - The site does not comply with PD 193 in the number of overall street trees. The sidewalks at Turtle Creek Boulevard, Dickason Street, and Gillespie Street are not in compliance with PD 193 location requirements. Street trees are not planted along Turtle Creek Boulevard within the tree planting zone.
 - The new alternate landscape plan is similar to a previous landscape plan approved by the board but with some adjustments for species and other additions.
 - Factors for consideration:
 - The Board of Adjustment approved an alternate landscape plan for this property in August of 2005. A new building permit for an additional structure has required the property to come under compliance with PD 193 provisions or to seek approval for an alternate landscape plan from the board.
 - There are significant additions of trees shown to be planted in proximity to Turtle Creek Boulevard. Other additional small plantings are proposed in addition to what was shown on the original board-approved plan.
 - The owner plans to replace previously planted bald cypress trees with new large live oak trees.
 - Placement of trees in the tree planting zone along a portion of Gillespie and near the post oaks at Turtle Creek Boulevard would cause disruption and damage of some existing trees the property owner has sought to maintain throughout the construction process.
 - Recommendation:
 - The provided alternate landscape plan demonstrates an intent to address deficiencies of PD 193 and to compensate with alternate landscaping. The site was approved for an alternate plan previously and the new plan enhances the original plan with new visual evergreen canopy trees. The deficiency of street trees along Turtle Creek Boulevard is mitigated with the protection of existing post oak trees that are highly sensitive to disturbance and with the planting of new trees on the corner of the property along the boulevard. The property owner has sought to protect existing trees throughout the property when possible.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a document that provided additional details about the requests;
 - a partial amended landscape plan; and
 - photos of the site.

- Information was also submitted by opposition to this request (see Attachments B, D, E, and G). This information included the following:
 - a document that provided details about why this request should be denied;
 - photos of the site and neighborhood;
 - a copy of the city ordinance that created a Historic Overlay District on the landscaping and buildings comprising the Mansion on Turtle Creek;
 - a copy of the Renaissance Plan for Dallas Parks and Pedestrian Long Range Development Plan of 2002;
 - a copy of the Downtown Parks Master Plan Final Report Dallas Texas of 2004;
 - public printed materials that reflect the extent of existing redevelopment and current and future gateway interconnections between and among the Katy Trail, Reverchon Park, Lee Park, and Turtle Creek Boulevard;
 - excerpted pages from the Oak Lawn Plan;
 - a letter that withdraws his opposition if the owner files the “Exhibit A” Plan.
- The applicant submitted information beyond what was submitted with the original application and beyond what was discussed at the August 28th staff review team meeting (see Attachment F). This information included the following:
 - a document that explains additional points about this request;
 - a revised landscape plan;
 - a “landscape matrix.”

GENERAL FACTS (related to the variances):

- A 20’ front yard setback is required on lots zoned PD No. 193 O-2 (Office) Subdistrict.
The submitted revised “planting plan” denotes a structure (in this case, a monument premise sign that is 30” x 60” on a concrete base) that is located 3’ from the site’s Turtle Creek Boulevard front property line (or 17 into the 20’ front yard setback along Turtle Creek Boulevard) and is located 13’ from the site’s Dickason Avenue front property line (or 7’ into the 20’ front yard setback along Dickason Avenue).
- The entire proposed monument sign is located in the site’s two 20’ front yard setbacks along Turtle Creek Boulevard and Dickason Avenue.
- The site has three, 20’ front yard setbacks (one on Turtle Creek Boulevard, one on Dickason Avenue, and one on Gillespie Avenue). The front yard setbacks on this PD No. 193 (O-2 Subdistrict) zoned site are typical of any lot that has a street frontage and is not zoned single family, duplex, or agricultural.
- The site is moderately sloped, somewhat irregular in shape (L-shaped), and according to the application is 2.47 acres in area. The site is zoned PD No. 193 (O-2 Subdistrict).
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a document that provided additional details about the requests;
 - a partial amended landscape plan; and
 - photos of the site.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
North: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
South: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
East: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
West: PD No. 374, H/29 (Planned Development District, Historic)

Land Use:

The subject site is developed with an office use. The area to the north and east are undeveloped; the area to the south is Turtle Creek; and the area to the west is developed with office, hotel, and residential uses.

Zoning/BDA History:

1. BDA045-267, 2999 Turtle Creek Boulevard (the subject site) On August 15, 2005, the Board of Adjustment Panel C granted a request for a special exception to the landscape regulations. The board imposed the following condition with their approval: compliance with the submitted revised landscape plan is required. The case report stated that the request was made in conjunction with constructing and maintaining an office structure on a site that was under development.

Timeline:

- July 18, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 16, 2007: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."
- August 17, 2007: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the requests;

- the August 27th deadline to submit additional evidence for staff to factor into their analysis and discuss at the staff review team meeting;
- the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

- August 23, 2007 The applicant submitted additional information to the Board Administrator (see Attachment A).
- August 27, 2007 A person in opposition to the landscape special exception request submitted information to the Board Administrator (see Attachment B).
- August 28, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- August 28, 2007 The Building Inspection Development Code Specialist forwarded a revised Building Official's Report to the Board Administrator (see Attachment C).
- August 27, 2007 A person in opposition to the landscape special exception request submitted information to the Board Administrator beyond what was discussed at the August 28th staff review team meeting (see Attachment D).
- Sept. 7, 2007 A person in opposition to the landscape special exception request submitted information to the Board Administrator beyond what was discussed at the August 28th staff review team meeting (see Attachments E and G).
- Sept. 7, 2007 The applicant submitted information to the Board Administrator beyond what was discussed at the August 28th staff review team meeting (see Attachment F).

Sept. 10, 2007 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the special exception to the landscape regulations (see Attachment H).

STAFF ANALYSIS (related to the landscape special exception):

- A revised alternate planting plan submitted to/stamped by the City on 9-7-07 has been submitted that, according to the City of Dallas Chief Arborist, is deficient in meeting the street tree and sidewalk location requirements of the PD No. 193 landscape regulations.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where a revised alternate planting plan submitted to/stamped by the City on 9-7-07 has been submitted that, according to the Chief Arborist, is not in full compliance with street tree and sidewalk requirements) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted revised alternate planting plan submitted to/stamped by the City on 9-7-07, the ancillary office building could be constructed/maintained on the site, where the site would be “excepted” from full compliance to the street tree and sidewalk location requirements of the Oak Lawn PD landscape ordinance.

STAFF ANALYSIS (related to the variances):

- The front yard variances are requested to construct and maintain an approximately 150 square foot monument sign structure in two of the approximately 2.5 acre site’s three front yard setbacks.
- The site has three, 20’ front yard setbacks (one on Turtle Creek Boulevard, one on Dickason Avenue, and one on Gillespie Avenue). The front yard setbacks on this PD No. 193 (O-2 Subdistrict) zoned site are typical of any lot that has a street frontage and is not zoned single family, duplex, or agricultural. The site is moderately sloped, somewhat irregular in shape (L-shaped), and according to the application is 2.47 acres in area. The site is zoned PD No. 193 (O-2 Subdistrict).
- The applicant has the burden of proof in establishing the following related to the front yard variance requests:
 - That granting the variances to the front yard setback regulations of up to 17’ requested in conjunction with constructing/maintaining an approximately 150 square foot monument sign structure will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site (a site that is moderately sloped, somewhat irregular in shape (L-shaped), and according to the application is 2.47 acres in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (O-2 Subdistrict) zoning classification.

- The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 193 (O-2 Subdistrict) zoning classification.
- If the Board were to grant the variance requests of up to 17', imposing a condition whereby the applicant must comply with the submitted revised planting plan, the structure in the front yard setbacks would be limited to that shown on this plan – which in this case is an approximately 150 square foot monument sign structure that is located 3' from the site's Turtle Creek Boulevard front property line (or 17' into this site's 20' front yard setback) and 13' from the site's Dickason Avenue front property line (or 7' into this site's 20' front yard setback).