

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, NOVEMBER 13, 2006

Briefing: 10:00 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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11-13-2006

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, NOVEMBER 13, 2006
AGENDA

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

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

MISCELLANEOUS ITEMS

Approval of the Monday, October 16, 2006 Board of Adjustment Public Meeting Minutes	M1
Approval of Panel C's 2007 Public Hearing Schedule	M2

UNCONTESTED CASES

BDA 056-175	5918 Llano Avenue REQUEST: Application of John Trent for a special exception to the fence height regulations	1
BDA 056-229(J)	1305 Keats Drive REQUEST: Application of Elias C Ramirez for a special exception to the side yard setback regulations	2
BDA 056-250(J)	5514 Royal Lane REQUEST: Application of Julie Lynch, represented by D.C. Broadstone II for a special exception to the fence height regulations	3

HOLDOVER CASE

BDA 056-225(J)	10770 Lennox Lane REQUEST: Application of Kerry Krottinger for a special exception to the fence height regulations	4
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REGULAR CASES

BDA 056-205	3600 W. Illinois Avenue REQUEST: Application of Nadine Franks as a limited partner of JNR Development, LP, represented by Nadine E Franks, for a special exception to the tree preservation regulations	5
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BDA 056-249	3500 Rock Creek Drive REQUEST: Application of Jon Page, represented by Debra Settle, for a variance to the front yard setback regulations	6
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BDA 056-254	6602 Forney Branch Court REQUEST: Application of Morrison Homes of Texas, Inc., represented by Robert Baldwin, for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations	7
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BDA 056-255	6603 Forney Branch Court REQUEST: Application of Morrison Homes of Texas, Inc., represented by Robert Baldwin, for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations	8
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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 October 16, 2006 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

To approve the Board of Adjustment Panel C's 2007 Public Hearing Schedule (see Attachment A for proposed schedule).

FILE NUMBER: BDA 056-175

BUILDING OFFICIAL'S REPORT:

Application of John Trent for a special exception to the fence height regulations at 5918 Llano Avenue. This property is more fully described as Lot 5 in City Block 3/1893 and is zoned CD No. 12 which limits the height of a fence in the side yard to 6 feet. The applicant proposes to maintain an existing 8 foot fence in the required side yard which would require a special exception of 2 feet.

LOCATION: 5918 Llano Avenue

APPLICANT: John Trent

REQUEST:

- A special exception to the fence height regulations of 2' is requested in conjunction with maintaining approximately 7.5' high wood fence panels and pedestrian gate with 8' high wood columns located in the site's two side yard setbacks on a site developed with a single family home.

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:

- Provisions set forth in the ordinance establishing CD No. 12 state that fences are not allowed in the front yard, and fences in side yards must be set back at least 5' from the main plane of the front façade, and may not exceed 6' in height. The minimum side yard for main structures in CD No. 12 is "5' on the one side and 10' on the other side."
- Elevations have been submitted indicating the maximum height of the proposal is 8'.
- The following additional information was gleaned from the originally submitted scaled site plans:

- The existing fence/columns/gate located in the site's western 10' side yard setback is 10' in length.
- The existing fence/columns located in the site's eastern 5' side yard setback is 5' in length.
- Specifications pertaining to the building materials of the existing fence/columns/gate were not specified on the originally submitted site plans and elevations.
- Revised site plans and elevations were submitted by the applicant (see Attachment A). The revised fence elevations indicate that the fence panels/gate/columns are made of wood. The revised site plans indicate the fence panels/gate/columns are in compliance with the fence setback regulations of CD No. 12 located 5' from the main plane of the front façade of the structure. (The applicant had originally submitted site plans indicating fence/columns/pedestrian gate that were located in the site's two side yard setbacks, and that were about 4.5' from the main plane of the front façade of the structure, not in compliance with the fence setback regulations of CD No. 12).
- No information related to landscape materials to be proposed in conjunction with this request has been submitted.
- The Board Administrator conducted a field visit of the site and surrounding area along Llano Avenue (approximately 500' east and west of the subject site) and noted no other fences above six (6) feet high which appeared to be located in a side yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	CD No. 12 (Conservation District)
<u>North:</u>	CD No. 12 (Conservation District)
<u>South:</u>	CD No. 12 (Conservation District)
<u>East:</u>	CD No. 12 (Conservation District)
<u>West:</u>	CD No. 12 (Conservation District)

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:

June 16, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 19, 2006: The Board Administrator left the applicant a message that conveyed 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;
- 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 25, 2006 The applicant submitted information beyond what was submitted with the original application (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.

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

STAFF ANALYSIS:

- Revised site plans and elevations have been submitted that document the location of the fence panels/pedestrian gate/columns in the site's side yard setbacks. (The revised plans indicate that the fence panels/pedestrian gate/columns are located in compliance with the CD No. 12 fence setback regulations: 5' from the main plane of the front façade).

- Revised elevations denote the building material (wood) and the maximum height of the existing fence panels and gate (approximately 7.5' high), and columns (8'). (The revised site plans and elevations have been reduced so are no longer to scale).
- No information related to landscape materials to be proposed in conjunction with this request has been submitted.
- No other fences above six (6) feet high were noted in the immediate area which appeared to be located in a side yard setback.
- As of November 6th, no letters had been submitted in support or opposition to the special exception.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' (whereby the existing approximately 7.5' high wood fence panels/pedestrian gate and 8' high columns) will not adversely affect neighboring property.
- Granting this special exception of 2' with conditions imposed that the applicant complies with the submitted revised site plans and elevations would assure that the existing fence panels/pedestrian gate/columns are maintained as shown on these documents.

FILE NUMBER: BDA 056-229(J)

BUILDING OFFICIAL'S REPORT:

Application of Elias C Ramirez for a special exception to the side yard setback regulations at 1305 Keats Drive. This property is more fully described as Lot 17 in City Block D/5097 and is zoned R-7.5(A) which requires a side yard setback of 5 feet. The applicant proposes to construct a carport and provide a 2 foot 6 inch side yard setback which would require a special exception of 2 foot 6 inches.

LOCATION: 1305 Keats Drive

APPLICANT: Elias C Ramirez

REQUEST:

- A special exception to the side yard setback regulations of 2'6" is requested in conjunction with maintaining a carport on a site developed with a single family home.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception for a carport to the front yard or side yard setback regulations since the basis for this type of appeal is *when in the opinion of the board*, the special exception will not have a detrimental impact on surrounding properties.

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

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties.

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

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

GENERAL FACTS:

- A 5'-side yard setback is required in the R-7.5(A) zoning district.
- The existing carport has the following characteristics:
 - located 2'6" from the site's southern side property line
 - approximately 9'6" x 52'6" (or approximately 499 square feet) in area from the scaled site plan/survey
 - one-vehicle-wide
 - constructed of wooden materials as observed from the site visit
 - 11' in height to the peak of the carport from the scaled east elevation
- The subject site is approximately 50' x 125' in area.
- According to DCAD, the site is developed with a single family home in good condition built in 1944 with 1,086 square feet of living area and a 286 square foot detached garage.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the front yard and side yard with a specific basis for this type of appeal. (Note that the Dallas Development Code does not provide a definition of "carport" however Building Inspection interprets a "carport" to be a structure that would cover a vehicle and be open on at least one side. Building Inspection has recently been interpreting what would appear to a layperson to be a garage without a garage door as a "carport").
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the front yard setback and side yard setback with a different basis for appeal than that of *special exceptions for carports* in the front yard setback and side yard setback.
- The Dallas Development Code specifies that no side yard setback is required in residential districts for "a structure accessory to a residential use if the structure does not exceed 15 feet in height; and is located in the rear 30 percent of the lot." In this case, the special exception is required since:
 - The "carport" structure can not be deemed "a structure accessory to a residential use" since it is attached to the main structure.
 - Even if the "carport" structure was detached from the main structure and could be deemed "a structure accessory to a residential use," it is not located in the rear 30 percent of the 125'-long lot.
- The elevations and site plan show the carport structure attached to the garage and main structure.
- The site plan shows that the carport is attached to both the main structure and the garage. The existing garage structure is located in the side yard setback and may be non-conforming. If the garage is attached to the carport / main structure the garage would need a variance to the side yard setback regulations.
- The applicant has verbally indicated that the carport will be detached from the garage by at least one inch.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5 (A) (Single family residential 7,500 square feet)
North: R-7.5 (A) (Single family residential 7,500 square feet)
South: R-7.5 (A) (Single family residential 7,500 square feet)
East: R-7.5 (A) (Single family residential 7,500 square feet)
West: R-7.5 (A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, east, 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:

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

October 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 26, 2006: The Board of Adjustment Senior Planner contacted the applicant to convey 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 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 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 Board of Adjustment Administrator, the Development Services Senior Engineer, the Building Inspection Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The applicant has submitted an elevation and a site plan showing the location of the existing carport.
- Other existing carports were identified in the immediate area.
- Granting the special exception to side yard regulations would allow the carport to remain in its current location, which is 2'6" away from the side property line (or 2'6" into the required 5' side yard setback).
- Historically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport's location in the front yard setback and side yard setback; would require the carport located in the required setbacks to be retained in its current design, materials, and configuration; and would require the applicant to mitigate any water drainage related issues that the carport may cause on the lot immediately adjacent:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. There is no lot-to-lot drainage in conjunction with this proposal.
 4. All applicable building permits are obtained.
- Staff also suggests that the Board impose a condition that the carport must be detached from the garage structure.
- The applicant has the burden of proof to substantiate regarding the carport special exception to the side yard regulations that the carport will not have a detrimental impact on surrounding properties.

FILE NUMBER: BDA 056-250(J)

BUILDING OFFICIAL'S REPORT:

Application of Julie Lynch, represented by D.C. Broadstone II for a special exception to the fence height regulations at 5514 Royal Lane. This property is more fully described as the west part of Lot 7 in City Block A/5518 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 an 8 foot 9 inch fence in the required front yard which would require a special exception of 4 feet 9 inches.

LOCATION: 5514 Royal Lane

APPLICANT: Julie Lynch
Represented by D.C. Broadstone II

REQUEST:

- A special exception to the fence height regulations of 4' 9" is requested in conjunction with constructing and maintaining the following in the 40' Royal Lane front yard setback on a site that is developed with a single family home:
 - primarily a 6' 7 1/4" high stucco over masonry wall with 7' high columns*; and
 - an 8' 7 1/4" high solid wood gate.
- The full fence elevation indicates four "cut-outs" that are approximately 14'-long wall panels. These "cut-out" panels are 7' 7 1/4" high and are flanked by 8' high columns. In addition, an "8' high iron picket fence" is proposed to be located in the Royal Lane 40' front yard setback oriented *perpendicular* to Royal Lane.

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 received Board of Adjustment approval for an 8'9" fence height special exception on December 12, 2005. The fence was constructed without applying for a building permit. The Dallas Development Code requires a building permit to be obtained within 180 days of favorable Board of Adjustment action or the case is deemed to be denied without prejudice and the applicant must begin again.
- The following additional information was gleaned from the site plan:
 - The wall is to be approximately 200' in length oriented at a slight diagonal to Royal Lane (ranging at a distance of 18' – 39' from the Royal Lane front property line. (The distance of the wall from the pavement line cannot be determined since the site plan does not denote the pavement line).
 - The gate is to be located approximately 39' from the property line.
- A separate plan has been submitted that denotes the following landscape materials to be placed on the street side of the proposed wall:
 - 69 azalea encores
 - 10 tropical palms
 - one 17" Oak, one 18" Oak, and one 20" Oak
- One single family home would have direct frontage to the proposed wall but this home is separated by a six-lane thoroughfare with parkway, and has an approximately 5' high solid brick wall that runs parallel to the Royal Lane access road.
- The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above 4' in height and located in a 40' front yard setback in this block of Royal Lane:
 - a combination solid/open wrought iron fence that is approximately 7' high immediately west of the site (and what appears to be the result of board action made in conjunction with BDA 956-247); and
 - a combination solid/open wrought iron fence that is approximately 7' high two lots west of the site (with no recorded board of adjustment history).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 056-044
(the subject site)

On December 12, 2005, the Board of Adjustment Panel C granted a request to the fence height regulations of 4'9" subject to compliance with the submitted site plan/elevation, fence elevation, and site plan with landscape materials dated 12/12/05.
2. BDA 956-247, 5426 Royal Lane
(the lot immediately west of the subject site)

On October 21, 1996, the Board of Adjustment Panel C granted a request to the fence height special regulations of 1' 2". The board imposed the following conditions with the request: compliance with the submitted site/landscape and elevation plan is required. The case report states the request was made to complete and maintain a maximum 5' high combination solid brick and open metal fence with 5' 2" high columns, and that although the fence appears to be higher than 5', the fence was technically measured from the inside grade which resulted in a maximum fence/column height of only 5' 2". (The way in which a fence is measured was amended in the Dallas Development Code in 1998 whereby the height of a fence in single family and duplex districts is now measured to the top of the fence to the level of the ground inside and outside of any fence and is the greater of these two measurements).

Timeline:

- Sept. 29, 2006 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 17, 2006: 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 any preliminary action is required on a case, including but not limited to a fee waiver or waiver of the two year waiting period, the case must be returned to the panel taking the preliminary action."
- October 24, 2006: The Board Senior Planner contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/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;
- that a site plan with landscape materials has been submitted that may or may not (depending on the height of the landscape materials at the drive approach) violate the City's visibility obstruction regulations;
- 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 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 Board of Adjustment Administrator, the Development Services Senior Engineer, the Building Inspection Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A scaled site plan/elevation has been submitted that documents the locations of the proposed solid wall (parallel to Royal Lane) and fence (perpendicular to Royal Lane), columns, and gate relative to the property line. The site plan also clearly shows the length of the proposed wall and fence relative to the entire lot. (The site plan does not document the proximity of the proposed wall to the Royal Lane pavement line).
- A scaled partial elevation has been submitted that documents the height of the proposed wall which ranges in height from 6' 7 1/4" – 7' 7 1/4", columns which range in height from 7' – 8', and an entry gate (8' 7 1/4"). The elevation also documents the building materials of the wall (stucco over masonry) and gate (wood).
- No elevation has been submitted that documents the "8' high iron picket fence" noted on the site plan that is located in the 40' front yard setback perpendicular to Royal Lane.

- An additional site plan has been submitted that denotes landscape materials to be located on the street side of the proposed wall. This additional site plan does not denote the “8’ high iron picket fence” noted on the site plan that is located in the 40’ front yard setback perpendicular to Royal Lane.
- The proposal would be located immediately across from one single family home that is separated by a six-lane thoroughfare with parkway, and has an approximately 5’ high solid brick wall that runs parallel to the Royal Lane access road.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the wall, columns, fence, and gate that are proposed to exceed 4’ in height) will not adversely affect neighboring property.
- Granting this special exception of 4’ 9” with conditions imposed that the applicant complies with the submitted site plan/elevation, fence elevation, and site plan with landscape materials would assure that the proposed wall, fence, columns, and gate are constructed and maintained as shown on these documents.

FILE NUMBER: BDA 056-225(J)

BUILDING OFFICIAL'S REPORT:

Application of Kerry Krottinger for a special exception to the fence height regulations at 10770 Lennox Lane. This property is more fully described as Lot 1 in City Block 3/5522 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 a 9 foot fence in the required front yard setback which would require a special exception of 5 feet.

LOCATION: 10770 Lennox Lane

APPLICANT: Kerry Krottinger

REQUEST:

- A special exception to the fence height regulations of 5' is requested in conjunction with constructing and maintaining an 8' high solid stucco fence with 9' high stucco columns and a sliding gate to be located in the site's Lennox Lane and Royal Lane 40' front yard setback on a site developed with a single family home.

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 has submitted a site plan and elevation indicating a wall/gate proposal that would reach a maximum height of 8'.
- The applicant has submitted a revised site plan showing the curb line to ensure the proposed fence will be outside of the visibility corner clip; and a revised elevation labeling the maximum height of the columns to be 9' and changing the materials of the columns from stone to stucco.

- The following additional information was measured from the site plan:
 - The proposed wall/gate located in the 40' front yard setback would be: approximately 106' in length located approximately 1' from the north property line adjacent to Royal Lane; approximately 28' in length located diagonally across the northwest corner of the request site at the Royal Lane and Lennox Lane visibility corner clip; approximately 315' in length approximately 1' from the property line on the west side of the subject site adjacent to Lennox Lane; and approximately 40' located on the southern property line perpendicular to Lennox Lane.
 - The proposed two gates are to be located approximately 5' from the west property line.
- There is one single family homes across Lennox Lane and two single family homes across Royal Lane that would have direct frontage to the proposed fence.
- The applicant submitted a drawing demonstrating the existing fences that exceed 6' in height according to his observations.
- Senior Planner Hiromoto conducted a field visit of the site and surrounding area and noted fences that exceed 4' in yards that are likely to be deemed front yards according to the development code immediately north, south, east, and west of the request site.
- The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A). This information included a letter that provided additional details about the request.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 93-014 On January 12, 1993, the Board of Adjustment followed the staff recommendation and granted a request for a special exception to the fence height regulations to maintain a 5 foot wrought iron fence with 6' brick columns in the defined front yards along Lennox Lane and Royal Lane, subject to compliance with a submitted site/landscape plan at 10770 Lennox Lane (the subject site).

2. BDA 978-232 On October 19, 1998, the Board of Adjustment denied with prejudice of a request for a special exception to the fence height regulations of 4 feet and followed the staff recommendation of denial with prejudice of the request for a special exception to the visibility triangle regulations at 10770 Lennox Lane (the subject site).
3. BDA 84-286 On October 23, 1984, the Board of Adjustment followed the staff recommendation and granted a request for a special exception to the fence height regulations to maintain a 7' wrought iron and brick fence with 7' and 8' brick columns along Strait Lane at 10777 Strait Lane (three lots east of the request site).
4. BDA 88-119 On November 8, 1988, the Board of Adjustment followed the staff recommendation and granted a request for a special exception to the fence height regulations to maintain a 6'10" open metal fence with brick columns, subject to a site plan and a landscape plan.
5. BDA 94-126 On October 25, 1994, the Board of Adjustment granted a request for a special exception to the fence height regulations to maintain a 7' fence subject to a minimum 10' setback from the property line; the fence must be constructed of an acceptable open metal material and the fence portion must not exceed 6' in height; columns of metal or solid materials and columns not exceeding 7' in height; and a landscape plan approved by this Board (landscaping in front of fence between the fence and the property line) located at 10757 Lennox Lane (the lot immediately west of the subject site).

Timeline:

- August 25, 2006: The applicant 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 of Adjustment Senior Planner mailed the applicant a letter to convey 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 6th 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 October public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

- Sept. 25, 2006 The applicant submitted a revised site plan to Development Code Specialist Sipes.
- October 2, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.
- October 2, 2006 Transportation Engineer Nguyen submitted a review comment sheets with comments were submitted in conjunction with this application.
- October 6, 2006 The applicant submitted additional information (see Attachment A) and a revised elevation. (Color photos of the site and surrounding area submitted with the application will be available for review at the briefing/public hearing).
- November 3, 2006: The applicant submitted a full-sized landscape plan, an elevation showing landscaping, and an alternative elevation (Attachment B). (The full-sized plan will be available for review at the briefing/public hearing.)

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the entire proposed wall/gate in the site’s front yard setbacks, and its location relative to the front property line.
- A wall/gate elevation has been submitted that denotes the maximum height of the proposed gate/wall (8’- 0”), proposed columns (9’-0”) and the building materials (wall and columns to be stucco, both to match the house).
- The applicant has submitted a landscape plan showing landscaping adjacent to the proposed fence and an elevation showing landscaping adjacent to the fence from the Royal Lane perspective.
- The applicant also submitted an alternative elevation showing a fence that is constructed of solid materials to 4’ in height and wrought-iron up to a height of 8’ with 9’ solid columns. The applicant’s representative has indicated that the original

elevation showing a solid fence is the applicant's preference in his request, but the alternative elevation is provided as an option to address concerns expressed by the Board at the October 16, 2006 public hearing.

- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' (whereby the proposed 8' high wall/gate and 9' high columns) will not adversely affect neighboring property.
- Granting this special exception of 5' with conditions imposed that the applicant complies with the revised site plan and elevation would assure that the proposed wall and gate would be constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2006

APPEARING IN FAVOR: Mike Jones, 2706 Sylvia Way, McKinney, TX

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

I move that the Board of Adjustment in Appeal No. **BDA 056-225**, **hold** this matter under advisement until **November 13, 2006** so that the applicant may come back to the board with a landscape plan.

SECONDED: **Jefferson**

AYES: 4– Boyd, Maten, Gomez, Jefferson

NAYS: 1– Moore

MOTION PASSED: 4– 1

FILE NUMBER: BDA 056-205

BUILDING OFFICIAL'S REPORT:

Application of Nadine Franks as a limited partner of JNR Development, LP, represented by Nadine E Franks, for a special exception to the tree preservation regulations at 3600 W. Illinois Avenue. This property is more fully described as Lot 11 in City Block 6114 and is zoned LI which requires mitigation for protected trees. The applicant proposes to construct a building and provide an alternate tree mitigation plan which would require a special exception.

LOCATION: 3600 W. Illinois Avenue

APPLICANT: Nadine Franks as a limited partner of JNR Development, LP

REQUEST:

- A special exception to the tree preservation regulations is requested in conjunction with removing protected trees on an approximately 10-acre undeveloped site, part of which (5.3 acres) is to be developed with a new restaurant (Sonic) and four pad sites for future retail development, and part of which (3.7 acres) is proposed to be land set aside for a tree conservation.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated:
 - 1) how strict compliance with the requirements of this article (The Landscape and Tree Preservation Regulations) will unreasonably burden the use of the property; and
 - 2) that the special exception will not adversely affect neighboring property.
- The City's Chief Arborist recommends denial of the request.

STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:

The board may grant a special exception to the tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and

- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the Tree Preservation Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
The applicant is requesting an exception from the required amount of tree mitigation on the site.
- The requirements that the applicant is seeking the special exception from are not imposed by a site-specific landscape plan approved by the city plan commission or city council.
- On November 1, 2006, the City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Chief Board of Adjustment Planner (see Attachment A). This memo stated the following:
 - The applicant is requesting relief from tree replacement requirements of Article X of the Dallas Development Code: The Landscape and Tree Preservation Regulations, in that the applicant is proposing an alternate tree mitigation plan than includes waiving the tree replacement balance after planting the minimum amount of landscaping required to meet the city's landscape ordinance, and after donating land to the city's Park and Recreation Department, for which the applicant is also requesting tree mitigation credit.
 - The special exception request is triggered by the removal of protected trees.
 - Deficiency:
 - The applicant is required to mitigate caliper inch-for-inch all protected trees removed (which in this case, is 340 protected trees for a total of 4,438 caliper inches which carries a replacement value of \$432,448.00).
The applicant is providing 114 caliper inches of replacement trees on-site (2.6%) and donating a separate but adjacent tract of land to the city's Park and Recreation Department.
 - Factors for consideration:
 - It appears that the request is to alleviate the financial burden associated with the tree replacement requirements. Granting the request would allow the applicant to receive tree mitigation credit (possibly as much as 97%) for the land dedicated to the Park and Recreation Department. Normally, this credit is available only after dedicating a conservation easement to the city and the maximum credit allowed would be 80% (3,350 caliper inches or \$345,919.42). If the Board of Adjustment is inclined to approve the request, they would be

approving tree mitigation credit for wooded land donated to the Park and Recreation Department rather than creating a conservation easement, and they would be waiving essentially the remaining tree mitigation balance of 774 caliper inches or \$75,246.00.

- Recommendation
 - Approval. The reason for approval has to do with the fact that the applicant and the Park and Recreation Department have expressed interest in developing a trail network through this tract that would compliment the existing park land and amenities therein.
- On November 3, 2006, the City of Dallas Chief Arborist submitted a revised memo to the Board Administrator and the Chief Board of Adjustment Planner (see Attachment B). This memo stated the following:
 - The applicant is requesting relief from tree replacement requirements of Article X of the Dallas Development Code: The Landscape and Tree Preservation Regulations, in that the applicant is proposing an alternate tree mitigation plan than includes waiving the tree replacement balance after planting the minimum amount of landscaping required to meet the city's landscape ordinance, and after either donating land to the city's Park and Recreation Department or creating a conservation easement, for which the applicant is also requesting tree mitigation credit.
 - The special exception request is triggered by the removal of protected trees.
 - Deficiency:
 - The applicant is required to mitigate caliper inch-for-inch all protected trees removed (which in this case, is 340 protected trees for a total of 4,438 caliper inches which carries a replacement value of \$432,448.00).
The applicant is providing 114 caliper inches of replacement trees on-site (2.6%) and either donating a separate but adjacent tract of land to the city's Park and Recreation Department or creating a conservation easement on that same tract.
 - Factors for consideration:
 - It appears that the request is to alleviate the financial burden associated with the tree replacement requirements. Granting the request would allow the applicant to receive tree mitigation credit (possibly as much as 97%) for land either dedicated to the Park and Recreation Department or dedicated to the city as a conservation easement. Normally, this credit is available only after dedicating a conservation easement to the city and the maximum credit allowed would be 80% (3,350 caliper inches or \$345,919.42). If the Board of Adjustment is inclined to approve the request, they would be approving tree mitigation credit for wooded land donated to the Park and Recreation Department or dedicated to the city as a conservation easement, and they would be waiving essentially the remaining tree mitigation balance of 774 caliper inches or \$75,246.00.
 - Recommendation
 - Denial. While the original memo recommended approval, the City Arborist believes he erred in making that recommendation. If the request is for a special exception to allow the conservation easement to satisfy the tree mitigation after planting on-site, the arborist is not able to support credit beyond what the ordinance already offers (80%). If the request for a special

exception is to allow land dedicated to the Park and Recreation Department to satisfy the tree mitigation balance, the special exception may not be necessary.

- A recent interpretation by the building official allows the city arborists to look at trees on land donated to the Park and Recreation Department as one of the alternate methods of tree mitigation allowed in Article X (which is to donate replacement trees to the Park and Recreation Department). Not only is the applicant eligible to receive tree mitigation credit from the land donation (donation of replacement trees on the land), Article X does not limit the amount of tree mitigation one can satisfy by this method.
- What the Chief Arborist does not know is how many 2” diameter replacement trees (approved replacement tree species) exist on the land that the Park and Recreation Department may accept. The existing tree survey was done for a different purpose – to identify the number of protected trees which would be different from what the city would consider replacement trees.
- In summary, the board may grant a special exception to allow a dedicated conservation easement to satisfy more than the 80% tree mitigation credit allowed by Article X (97%), or the board may grant a special exception to allow land dedicated to the Park and Recreation Department to satisfy the same remaining tree mitigation balance (4,324 caliper inches/\$421,339.60/97%) after planting 114 caliper inches on-site, which may or may not be achievable without the special exception.

BACKGROUND INFORMATION:

Zoning:

Site: LI (Light Industrial)
North: R-5(A) (Single family residential 5,000 square feet)
South: LI (Light Industrial)
East: LI (Light Industrial)
West: LI (Light Industrial)

Land Use:

The subject site is undeveloped. The area to the north is developed as a school (Hall Elementary School) and a park (Westmoreland Park); the area to the east and west are developed with retail uses; and the area to the south is undeveloped.

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 28 & October 18, 2006: 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 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 21, 2006: 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;
 - 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 August 28th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
 - the September 8th 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 September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 30, 2006: 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 Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Chief Arborist, the Board Administrator, the Board of Adjustment Senior Planner; the Development Services Senior Engineer, the Building Inspection Development Code Specialist, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- Sept. 1, 2006 The applicant submitted an email to the Board Administrator requesting that the appeal be postponed from Panel C's September 18th to Panel C's November 13th public hearing.
- October 19, 2006: 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;
- 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 20, 2006 The applicant's representative submitted revised related documents which have been included as part of this case report.

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.

November 1, 2006 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding this request (see Attachment A).

November 3, 2006 The City of Dallas Chief Arborist submitted a revised memo that provided his revised comments regarding this request (see Attachment B).

STAFF ANALYSIS:

- The applicant has requested that the Board of Adjustment grant a special exception to the Tree Preservation Regulations involving an alternate tree mitigation plan that (according to the Chief Arborist) includes waiving the tree replacement balance after planting the minimum amount of landscaping required to meet the landscape regulations on the site, and after either donating land to the City's Park and Recreation Department or by creating a conservation easement for which the applicant is also requesting tree mitigation credit.
- The applicant has the burden of proof in establishing the following:

- Strict compliance with the requirements of the tree preservation regulations (i.e. mitigating all protected trees removed which in this case amounts to 340 protected trees/4,438 caliper inches/\$432,448.00) will unreasonably burden the use of the property (in this case, a 10-acre undeveloped site, 5.3 acres which is to be developed with a new restaurant (Sonic) and four pad sites for future retail development, and 3.7 acres which is proposed to be land set aside for a tree conservation).
- The special exception (allowing more than the 80% tree mitigation allowed, or allowing land dedicated to the Park and Recreation Department to satisfy the same remaining tree mitigation balance of 4,324 caliper inches/\$421,339.60/97% after planting 114 caliper inches on-site) will not adversely affect neighboring property.

FILE NUMBER: BDA 056-249

BUILDING OFFICIAL'S REPORT:

Application of Jon Page, represented by Debra Settle, for a variance to the front yard setback regulations at 3500 Rock Creek Drive. This property is more fully described as Lot 36 in City Block 4/2023 and is zoned PD-193 (R-7.5 Subdistrict) which requires a front yard setback of 25 feet. The applicant proposes to construct a carport and provide an 8 foot front yard setback which would require a variance of 17 feet.

LOCATION: 3500 Rock Creek Drive

APPLICANT: Jon Page
Represented by Debra Settle

REQUEST:

- A variance to the front yard setback regulations of 17' is requested in conjunction with constructing and maintaining a carport addition on a single family home that would be located in the site's Stonebridge Drive 25' front yard setback.

STAFF RECOMMENDATION:

Denial without prejudice

Rationale:

- At the time of the staff review team meeting on October 27th, no site constraint was evident to this parcel of land that warranted the variance for the carport addition. Although the subject site appeared to be sloped from staff's field slides, and was noted to be irregular in shape, the site is approximately 21,500 square feet in area in a PD No. 193 (R-7.5 Subdistrict) where lots are typically only 7,500 square feet in area.
- At the time of the staff review team meeting on October 27th, the applicant had not substantiated how the site's restrictive area, shape and/or slope precluded the site from being developed in a way that meets the applicable development standards, including the front yard setback provisions, commensurate with other developments found on other similarly-zoned lots.

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:

- A 25' front yard setback is required in the PD No. 193 (R-7.5 Subdistrict) for both single family structures and other permitted structures.
The applicant proposes to construct and maintain an approximately 380 square foot carport addition (18' x 21') on an existing single family home with an approximately 2,500 square foot building footprint that would be located in one of the site's two, 25' front yard setbacks. The Building Official's Report states that the carport addition is proposed to be located as close as 8' from the site's Stonebridge Drive front property line (or as much as 17' into the 25' front yard setback).
- The site is located at the corner of Rock Creek Drive and Stonebridge Lane, and has two 25' front yard setbacks: one along Rock Creek Drive (which the home and addition would be in compliance with) and the other along Stonebridge Lane (where the proposed carport addition would be located).
- The Board of Adjustment is empowered to consider carports located in front yard setbacks in the single family zoning districts provided for in the Dallas Development Code as either a variance request or a special exception request. But the board is only empowered to consider carports located in a front yard setback in PD No. 193 as a variance request.
- According to calculations made by the Board Administrator from the submitted site plan, approximately 300 square feet of the 380 square foot carport addition building footprint would be located in the 25' Stonebridge Drive front yard setback.
- The site appears to be sloped, irregular in shape, and (according to DCAD) approximately 21,500 square feet in area. The site is zoned PD No. 193 (R-7.5 Subdistrict) where lots are typically 7,500 square feet in area.
- According to DCAD records, the site is developed with a single family home in "very good" condition built in 1926 with 3,474 square feet of living space, a 399 square foot attached garage, and a pool.
- On October 31st, the Board Administrator received additional information from the applicant's representative beyond what was submitted with the original application, and beyond what was discussed/considered at the October 27th staff review team meeting where the staff formed a recommendation of denial for this request (see Attachment A). This information included the following:

- a letter that provides additional details about the request (describing, among other things, the many trees on the site, and that the house and driveway on the site occupy the only flat buildable area on the lot);
- an account of the square footage of the house and proposed carport on the site (currently at 3,474 square feet with a proposed 306 square foot carport to total 3,780 square feet) along with square footages of 8 adjacent properties ranging from 3,880 square feet to 7,260 square feet; and
- a revised site plan that indicates the location of mature trees on the site, the location of “tree canopy w/groundcover” on the site, a notation of a “10’ drop to ret. wall w/ 10’ drop from ret. wall to creek” on the site, and the closest distance from the addition to the front property line to be 8’ 5”.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (R-7.5) (Planned Development District, Single family 7,500 square feet)
North: PD No. 193 (R-7.5) (Planned Development District, Single family 7,500 square feet)
South: PD No. 193 (R-7.5) (Planned Development District, Single family 7,500 square feet)
East: PD No. 193 (R-7.5) (Planned Development District, Single family 7,500 square feet)
West: PD No. 193 (R-7.5) (Planned Development District, Single family 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:

- Sept. 27, 2006: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- October 19, 2006: 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;

- 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 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.

The Building Inspection Chief Planner identified that the elevations submitted in conjunction with the application did not appear to correspond with features shown on the submitted site plan.

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

October 27, 2006: The Board Administrator relayed the Building Inspection Chief Planner's concern (and a misprinted 11' dimension from the carport addition to the front property line on the submitted site plan) on a message left with the applicant's representative, reminding her of the November 3rd deadline to submit any revised elevation/site plan for the board's docket.

October 31, 2006 The applicant's representative contacted the Board Administrator and explained the elevations submitted with the application. In addition, the applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information (including a revised site plan with corrected dimensions) was not factored into the staff recommendation since it was received after the October 27th staff review team meeting where the staff concluded to recommend denial of the request.

STAFF ANALYSIS:

- The site appears to be sloped, is irregular in shape, and (according to DCAD) approximately 21,500 square feet in area. The site is zoned PD No. 193 (R-7.5 Subdistrict) where lots are typically 7,500 square feet in area.
- The site is located at the corner of Rock Creek Drive and Stonebridge Lane, and has two 25' front yard setbacks: one along Rock Creek Drive (which the home and addition would be in compliance with) and the other along Stonebridge Lane (where the proposed carport addition would be located).
- According to calculations made by the Board Administrator from the submitted site plan, approximately 300 square feet of the 380 square foot building footprint would be located in the 25' Stonebridge Drive front yard setback.
- 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 17' requested to construct and maintain a carport addition on a single family home will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No 193 (R-7.5 Subdistrict) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No 193 (R-7.5 Subdistrict) zoning classification.
- If the Board were to grant the front yard variance request of 17', imposing a condition whereby the applicant must comply with the submitted revised site plan, the structure in the front yard setback would be limited to that which is shown on this plan – a carport addition that is located as close as 8' from the site's Stonebridge Drive front property line (or as much as 17' into the site's 25' Stonebridge Drive front yard setback).

FILE NUMBER: BDA 056-254

BUILDING OFFICIAL'S REPORT:

Application of Morrison Homes of Texas, Inc., represented by Robert Baldwin, for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations at 6602 Forney Branch Court. This property is more fully described as Lot 4 in City Block 15/6128 and is zoned R-7.5(A) which limits the height of a fence in the front yard to 4 feet, and prohibits certain items to be located within required visibility triangles. The applicant proposes to construct a 6 foot 6 inch fence in the required front yard setback which would require a special exception of 2 feet 6 inches to the fence height regulations, and to locate items in the required visibility triangle which would require a special exception to the visibility obstruction regulations.

LOCATION: 6602 Forney Branch Court.

APPLICANT: Morrison Homes of Texas, Inc.,
Represented by Robert Baldwin

REQUESTS:

- The following appeals have been made in this application:
 1. a special exception to the fence height regulations of 2.5'; and
 2. a special exception to the visibility obstruction regulations.Both appeals are requested in conjunction with constructing and maintaining a 6.5' high retaining wall to be located in the site's Prairie Flower Trail 25' front yard setback and in the 45' Prairie Flower Trail/Forney Branch Court intersection visibility triangle on a site that is intended to be developed with a single family home. (No fence is proposed to exceed 4' in height in the site's Forney Branch Court 25' front yard setback).

STAFF RECOMMENDATION (fence height special exception):

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

STAFF RECOMMENDATION (visibility obstruction special exception):

Denial

Rationale:

- The applicant has not substantiated how the proposed 6.5' high retaining wall proposed to be located at the intersection of Prairie Flower Trail and Forney Branch Court will not constitute a traffic hazard.
- The City's Development Services Senior Engineer does not support this request.

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 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 (related to the fence height special exception):

- 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 code states "if the fence is constructed on fill material that alters grade, as determined by the building official, the height of the artificially grade shall be included in the height of the fence. For purposes of this provision, artificially altered grade means the placement of fill material on property that exceeds a slope of one foot of height for three feet of distance."
The applicant has submitted a site plan labeled "Not for construction" indicating a line that appears to be the location of the proposed wall – a wall that would reach a maximum height of 6 1/2'. The elevation submitted with the application indicates a wall that would reach a maximum height of 6'. (The Board Administrator has informed the applicant's representative of the discrepancy between the two documents, and that the special exception is for only 2' to allow a maximum 6' high wall. On October 27th, the applicant's representative submitted a letter stating that the wall would reach a maximum height of 6' 6", prompting the Building Inspection Development Code Specialist to amend the Building Official's Report on this case accordingly).
- Information pertaining to the length of the fence/wall and its distance from property lines/curb lines cannot be provided given that the submitted scaled plan has been reduced.
- The elevation does not specify the building materials that the wall would be comprised of, and indicates a maximum height of 6' (even though the applicant's representative has submitted a site plan and letter stating that the maximum fence height on this site will be 6' 6").
- No landscape materials have been noted on a plan or elevation in conjunction with this request.
- Currently there are no single family homes that have direct frontage to the proposed retaining wall given that subdivision is under development.

- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences/walls above four (4) feet high which appeared to be located in the front yard setback.
- The applicant's representative submitted additional information beyond what was submitted with the original application, and beyond what was discussed at the October 27th staff review team meeting (see Attachment B). This information included the following:
 - a letter that provides additional details about the request; and
 - photos of the site and surrounding area.

GENERAL FACTS (related to the visibility obstruction special exception):

- 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).
 The applicant requests to construct and maintain a 6.5' high retaining wall in the 45' visibility triangle at the intersection of Prairie Flower Trail and Forney Branch Court.
- The applicant's representative submitted additional information beyond what was submitted with the original application, and beyond what was discussed at the October 27th staff review team meeting (see Attachment B). This information included the following:
 - a letter that provides additional details about the request; and
 - photos of the site and surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5 (A) (Single family district 7,500 square feet)
North: R-7.5 (A) (Single family district 7,500 square feet)
South: R-7.5 (A) (Single family district 7,500 square feet)
East: R-7.5 (A) (Single family district 7,500 square feet)
West: R-7.5 (A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA 056-255, 6603 Forney Branch Court (the lot immediately adjacent to the site) On November 13, 2006, the Board of Adjustment Panel C will consider a request

east of the subject site)

for a special exception to the fence height regulations of 2' and a special exception to the visibility obstruction regulations to construct and maintain a 6' high retaining wall in the site's Prairie Flower Trail front yard setback and in the 45' intersection visibility triangle.

Timeline:

- Sept. 29, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- October 19, 2006: 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;
 - 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;
 - 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 27, 2006 The applicant's representative submitted information beyond what was submitted with the original application (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.

The Development Services Senior Engineer identified that the site plan submitted in conjunction with the application showed that the proposed wall out of compliance with the visibility obstruction regulations.

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

October 27, 2006: The Board Administrator relayed the Development Service Senior Engineer's visibility obstruction concern to the applicant's representative who responded by explaining his intent to add a special exception to the visibility obstruction regulations to the appeal.

October 31, 2006: The Building Inspection Development Code Specialist forwarded a revised Building Official's Report that added a request for a special exception to the visibility obstruction regulations to the appeal.

October 31, 2006 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "The proposed retaining wall must be located outside the 45' x 45' intersection visibility triangle if the height exceeds 2.5 feet (measured from the top of the adjacent street curb." (The Development Services Senior Engineer clarified this comment sheet to the Board Administrator by explaining that he had no objections to the fence height special exception request but did have objections and did not support to the visibility obstruction special exception).

November 3, 2006 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment B).

STAFF ANALYSIS (related to the fence height special exception):

- An unscaled site plan labeled "Not for construction" has been submitted that *appears* to denote the location of the proposed retaining wall with a heavy black line. This heavy black line is labeled with references to 0', 3', and 6 ½'. If one assumes that the heavy black line on the site plan is the location of the proposed retaining wall, then the retaining wall that will exceed 4' in height will be limited to the site's Prairie Flower Trial front yard setback.
- Information pertaining to the length of the fence/wall and its distance from property lines/curb lines cannot be provided given that the submitted scaled plan has been reduced.
- The elevation does not specify the building materials that the wall would be comprised of, and indicates a maximum height of 6' (even though the applicant's representative has submitted a site plan and letter stating that the maximum fence height on this site will be 6' 6").

- No landscape materials have been noted on a plan or elevation in conjunction with this request.
- Currently there are no single family homes that have direct frontage to the proposed retaining wall given that subdivision is under development.
- No other fences/walls above four (4) feet high which appeared to be located in the front yard setback were noted in the immediate vicinity of the subject site.
- As of November 6th, no letters had been submitted in support or opposition to the special exception.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2.5' (whereby the proposed 6.5' high retaining wall of unspecified materials) will not adversely affect neighboring property.
- Granting this special exception of 2.5' with conditions imposed that the applicant complies with the submitted site plan and submitted elevation would create some ambiguity as to what will be constructed and maintained on the site since the site plan denotes a line that references what is assumed to be the location of the 6.5' high wall and the submitted elevation denotes a maximum 6' high wall.

STAFF ANALYSIS (related to the visibility obstruction special exception):

- The Development Services Senior Engineer has informed the Board Administrator that although he has no objections to the fence height special exception request, that he does not support the request to locate and maintain the proposed retaining wall in the Prairie Flower Trail/Forney Branch Court intersection visibility triangle.
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visibility obstruction regulations (whereby, according to the submitted site plan, a 6.5' high wall and according to the submitted elevation, a 6' high retaining wall will be located in the visibility triangle at the Prairie Flower Trail and Forney Branch Court intersection triangle) will not constitute a traffic hazard.
- If this request is granted, subject to compliance with the submitted site plan and elevation, a retaining wall (either at 6' in height or at 6.5' in height) would be "excepted" into the 45' Prairie Flower Trail and Forney Branch Court intersection triangle.
- If the Board of Adjustment were to grant the request for the fence height special exception (and impose the site plan as a condition to the fence height request) but deny the visibility obstruction special exception, staff would note on the fence height-approved stamped site plan that the fence/wall on the site must comply with all city-required visibility obstruction regulations.

FILE NUMBER: BDA 056-255

BUILDING OFFICIAL'S REPORT:

Application of Morrison Homes of Texas, Inc., represented by Robert Baldwin, for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations at 6603 Forney Branch Court. This property is more fully described as Lot 11 in City Block 16/6128 and is zoned R-7.5(A) which limits the height of a fence in the front yard to 4 feet, and prohibits certain items to be located within required visibility triangles.. The applicant proposes to construct a 6 foot fence in the required front yard setback which would require a special exception of 2 feet to the fence height regulations, and to locate items in the required visibility triangle which would require a special exception to the visibility obstruction regulations.

LOCATION: 6603 Forney Branch Court

APPLICANT: Morrison Homes of Texas, Inc.
Represented by Robert Baldwin

REQUESTS:

- The following appeals have been made in this application:
 1. a special exception to the fence height regulations of 2'; and
 2. a special exception to the visibility obstruction regulations.Both appeals are requested in conjunction with constructing and maintaining a 6' high retaining wall to be located in the site's Prairie Flower Trail 25' front yard setback and in the 45' Prairie Flower Trail/Forney Branch Court intersection visibility triangle on a site that is intended to be developed with a single family home. (No fence is proposed to exceed 4' in height in the site's Forney Branch Court 25' front yard setback).

STAFF RECOMMENDATION (fence height special exception):

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

STAFF RECOMMENDATION (visibility obstruction special exception):

Denial

Rationale:

- The applicant has not substantiated how the proposed 6' high retaining wall proposed to be located at the intersection of Prairie Flower Trail and Forney Branch Court will not constitute a traffic hazard.
- The City's Development Services Senior Engineer does not support this request.

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 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 (related to the fence height special exception):

- 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 code states "if the fence is constructed on fill material that alters grade, as determined by the building official, the height of the artificially grade shall be included in the height of the fence. For purposes of this provision, artificially altered grade means the placement of fill material on property that exceeds a slope of one foot of height for three feet of distance."
The applicant has submitted a site plan labeled "Not for construction" indicating a line that appears to be the location of the proposed wall - a wall would that would reach 6' in height. The elevation submitted with the application indicates a 6' high wall as well.
- Information pertaining to the length of the fence/wall and its distance from property lines/curb lines cannot be provided given that the submitted scaled plan has been reduced.
- The elevation does not specify the building materials that the wall would be comprised of, and indicates a maximum height of 6'.
- No landscape materials have been noted on a plan or elevation in conjunction with this request.
- Currently there are no single family homes that have direct frontage to the proposed retaining wall given that subdivision is under development.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences/walls above four (4) feet high which appeared to be located in the front yard setback.
- The applicant's representative submitted additional information beyond what was submitted with the original application, and beyond what was discussed at the October 27th staff review team meeting (see Attachment B). This information included the following:
 - a letter that provides additional details about the request; and

- photos of the site and surrounding area.

GENERAL FACTS (related to the visibility obstruction special exception):

- 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).The applicant requests to construct and maintain a 6' high retaining wall in the 45' visibility triangle at the intersection of Prairie Flower Trail and Forney Branch Court.
- The applicant's representative submitted additional information beyond what was submitted with the original application, and beyond what was discussed at the October 27th staff review team meeting (see Attachment B). This information included the following:
 - a letter that provides additional details about the request; and
 - photos of the site and surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5 (A) (Single family district 7,500 square feet)
North: R-7.5 (A) (Single family district 7,500 square feet)
South: R-7.5 (A) (Single family district 7,500 square feet)
East: R-7.5 (A) (Single family district 7,500 square feet)
West: R-7.5 (A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA 056-254, 6602 Forney Branch Court (the lot immediately west of the subject site) On November 13, 2006, the Board of Adjustment Panel C will consider a request for a special exception to the fence height regulations of 2.5' and a special exception to the visibility obstruction regulations to construct and maintain a 6.5' high retaining wall in the site's Prairie Flower Trail front yard setback and in the 45' intersection visibility triangle.

Timeline:

Sept. 29, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 17, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 19, 2006: 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;
- 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;
- 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 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.

The Development Services Senior Engineer identified that the site plan submitted in conjunction with the application showed that the proposed wall out of compliance with the visibility obstruction regulations.

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

October 27, 2006: The Board Administrator relayed the Development Service Senior Engineer's visibility obstruction concern to the applicant's representative who responded by explaining his intent to add a

special exception to the visibility obstruction regulations to the appeal.

- October 31, 2006: The Building Inspection Development Code Specialist forwarded a revised Building Official's Report that added a request for a special exception to the visibility obstruction regulations to the appeal.
- October 31, 2006 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "The proposed retaining wall must be located outside the 45' x 45' intersection visibility triangle if the height exceeds 2.5 feet (measured from the top of the adjacent street curb." (The Development Services Senior Engineer clarified this comment sheet to the Board Administrator by explaining that he had no objections to the fence height special exception request but did have objections and did not support to the visibility obstruction special exception).
- November 3, 2006 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment B).

STAFF ANALYSIS (related to the fence height special exception):

- An unscaled site plan labeled "Not for construction" has been submitted that *appears* to denote the location of the proposed retaining wall with a heavy black line. This heavy black line is labeled with references to 0', 3', and 6'. If one assumes that the heavy black line on the site plan is the location of the proposed retaining wall, then the retaining wall that will exceed 4' in height will be limited to the site's Prairie Flower Trail front yard setback.
- Information pertaining to the length of the fence/wall and its distance from property lines/curb lines cannot be provided given that the submitted scaled plan has been reduced.
- The elevation does not specify the building materials that the wall would be comprised of, and indicates a maximum height of 6'.
- No landscape materials have been noted on a plan or elevation in conjunction with this request.
- Currently there are no single family homes that have direct frontage to the proposed retaining wall given that subdivision is under development.
- No other fences/walls above four (4) feet high which appeared to be located in the front yard setback were noted in the immediate vicinity of the subject site.
- As of November 6th, no letters had been submitted in support or opposition to the special exception.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' (whereby the proposed 6' high retaining wall of unspecified materials) will not adversely affect neighboring property.
- Granting this special exception of 2' with conditions imposed that the applicant complies with the submitted site plan and submitted elevation would provide assurance that the proposed wall is constructed and maintained as shown on these

documents if one assumes that the heavy black line on this site plan is the proposed wall.

STAFF ANALYSIS (related to the visibility obstruction special exception):

- The Development Services Senior Engineer has informed the Board Administrator that although he has no objections to the fence height special exception request, that he does not support the request to locate and maintain the proposed retaining wall in the Prairie Flower Trail/Forney Branch Court intersection visibility triangle.
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visibility obstruction regulations (whereby, according to the submitted site plan, a 6' high wall will be located in the visibility triangle at the Prairie Flower Trail and Forney Branch Court intersection triangle) will not constitute a traffic hazard.
- If this request is granted, subject to compliance with the submitted site plan and elevation, a 6' high retaining wall would be "excepted" into the 45' Prairie Flower Trail and Forney Branch Court intersection triangle.
- If the Board of Adjustment were to grant the request for the fence height special exception (and impose the site plan as a condition to the fence height request) but deny the visibility obstruction special exception, staff would note on the fence height-approved stamped site plan that the fence/wall on the site must comply with all city-required visibility obstruction regulations.