

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, ROOM 6ES  
MONDAY, MARCH 18, 2013**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Bob Richard, regular member, and Philip Lewis, alternate member

MEMBERS ABSENT FROM BRIEFING: Joe Carreon, regular member

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Bob Richard, regular member, and Philip Lewis, alternate member

MEMBERS ABSENT FROM HEARING: Joe Carreon, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Cossum, Asst. Director, Lloyd Denman, Asst. Director and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Cossum, Asst. Director, Lloyd Denman, Asst. Director and Trena Law, Board Secretary

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**11:07 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **March 18, 2013** docket.  
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**1:07P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel C February 21, 2013 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013**

**MOTION:** **Maten**

I move **approval** of the Monday, **February 21, 2013** public hearing minutes.

**SECONDED:** **Coulter**

**AYES:** 5– Richardson, Maten, Coulter, Richard, Lewis

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 123-018

**BUILDING OFFICIAL’S REPORT:** Application of Nancy Kolo, represented by Mike Kaplan, for special exceptions to the visual obstruction regulations at 5127 Stoneleigh Avenue. This property is more fully described as Lot 12 in City Block I/2333 and is zoned PD-193 (R-7.5), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain items in the required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 5127 Stoneleigh Avenue.

**APPLICANT:** Application of Nancy Kolo  
Represented by Mike Kaplan

**REQUESTS:**

Special exceptions to the visual obstruction regulations are made in conjunction with maintaining an 8’ high solid board-on-board fence and sliding gate located in the two 20’ visibility triangles on either side of the driveway into the site from Crestview Drive on property developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections” to the requests.
- The applicant has substantiated how the location of portions of a solid board-on-board fence/gate in the two drive approach visibility triangles into the site from Crestview Drive do not constitute traffic hazards.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (R-7.5) (Planned Development, Single family)  
North: PD 193 (R-7.5) (Planned Development, Single family)  
South: PD 193 (R-7.5) (Planned Development, Single family)  
East: PD 193 (R-7.5) (Planned Development, Single family)  
West: PD 193 (R-7.5) (Planned Development, Single family)

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

January 14, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 14, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

March 8, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections.”

**GENERAL FACTS /STAFF ANALYSIS:**

- These requests focus on maintaining an 8’ high solid board-on-board fence and gate located in the two 20’ visibility triangles on either side of the driveway into the site developed with a single family home from Crestview Drive.
- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20-foot visibility triangles at drive approaches); and
  - between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and an elevation have been submitted showing approximately 8’ lengths of solid board-on-board fence in each of the two 20’ visibility triangles.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain an 8’ high solid board-on-board fence/gate in both drive approach visibility triangles on the site do not constitute traffic hazards.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the items in the aforementioned visibility triangles be limited to the locations, heights, and materials of those items as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013**

**APPEARING IN FAVOR:** Nancy Kolo, 5127 Stonleigh Ave., Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 123-018**, on application of Nancy Kolo, **grant** the request to maintain items in the visibility triangles as a special exception to the visual obstruction regulations in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED:** Maten

**AYES:** 5– Richardson, Maten, Coulter, Richard, Lewis

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 123-022

**BUILDING OFFICIAL'S REPORT:** Application of Carlos Martinez for a special exception to the fence height regulations at 4005 Villa Grove Drive. This property is more fully described as Lot 14 in City Block S/8705 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8-foot 6-inch high fence in the required front yard, which will require a special exception to the fence height regulations of 4 feet 6 inches.

**LOCATION:** 4005 Villa Grove Drive

**APPLICANT:** Carlos Martinez

**REQUEST:**

A special exception to the fence height regulations of up to 4' 6" is requested in conjunction with constructing and maintaining a solid board-on-board fence ranging (given grade changes on the site) from 7' 6" – 8' 6" in height in the site's 15' required front yard along Bretton Bay Lane on a site developed with a single family home. (No part of this application is made to construct and/or maintain a fence in the site's Villa Grove Drive required front yard).

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-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 developed with a single family home. The areas to the north, east, south, and west are developed with single family uses.

**Timeline:**

January 22, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 13, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 28, 2013: The applicant authorized the Board Administrator to amend his submitted elevations by adding “board on board” (see Attachment A).

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

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

- This request focuses on constructing and maintaining a solid board-on-board fence ranging (given grade changes on the site) from 7’ 6” – 8’ 6” in height in the site’s 15’ required front yard along Bretton Bay Lane on a site developed with a single family home (No part of this application is made to construct and maintain a fence in the site’s 25’ Villa Grove Drive required front yard).
- The subject site is located at the southeast corner of Bretton Bay Lane and Villa Grove Drive. Regardless of how the existing single family structure is oriented westward to front Villa Grove Drive, the subject site has required front yards along both streets. The site has a 15’ required front yard along Bretton Bay Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single family zoning district. The site also has a 25’ required front yard along Villa Grove Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9’ high fence could be constructed and maintained by right. But the site’s Villa Grove Drive frontage is deemed a front yard nonetheless to maintain the continuity of the established front yard setbacks established by the lots zoned and developed with single family homes to the south along Villa Grove Drive that front westward.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- A scaled site plan and revised elevations have been submitted that show the proposal in the Bretton Bay Lane front yard setback reaches a maximum height of 8’ 6”.
- The following additional information was gleaned from the submitted site plan:
  - Approximately 30’ in length parallel to the street (and approximately 15’ in length perpendicular on the sides of the site in the required front yard), approximately

on the front property line or approximately 13' from the pavement line where one home has direct frontage with no fence in its front yard.

- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences higher than 4' in the immediate area.
- As of March 11, 2013, two petitions signed by 24 owners/neighbors had been submitted to staff in support of the request and no letters had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' 6" in height) will not adversely affect neighboring property.
- Granting this special exception of 4' 6" with a condition imposed that the applicant complies with the submitted site plan and revised elevations would require the proposal exceeding 4' in height in the Bretton Bay Lane front yard to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

I move that the Board of Adjustment grant application **BDA 123-022** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

- Compliance with the submitted site plan and revised elevations is required.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Lewis

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

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FILE NUMBER: BDA 123-026

**BUILDING OFFICIAL’S REPORT:** Application of Grayson Wafford for variances to the front yard setback regulations and a special exception to the fence height regulations at 6422 Sondra Drive. This property is more fully described as Lot 4 in City Block 5/4909 and is zoned R-7.5(A), Neighborhood Stabilization Overlay (NSO) No. 4, which requires a front yard setback of 30 feet and limits the height of a fence in the front yard to 4 feet.

The applicant proposes to construct and maintain a single family structure and provide minimum front yard setbacks of 20 feet, which will require variances to the front yard setback regulations of up to 10 feet. The applicant also proposes to construct and maintain an 8-foot 6-inch-high fence in a required front yard, which will require a special exception to the fence height regulations of 4 feet 6 inches.

**LOCATION:** 6422 Sondra Drive

**APPLICANT:** Grayson Wafford

**REQUESTS:**

The following appeals have been made on a site that is currently developed with a single family home structure, which the applicant intends to demolish:

1. A variance to the front yard setback regulations of 9' 6" is requested in conjunction with constructing and maintaining single family home structure part of which would be located in the site's 30' Sondra Avenue front yard setback.
2. A variance to the front yard setback regulations of 8' is requested in conjunction with constructing and maintaining a single family home structure, part of which would be located in the site's 30' Marquita Avenue front yard setback.
3. A special exception to the fence height regulations of 4' 6" is requested in conjunction with constructing an 8' 6" high solid wood fence in the site's Marquita Avenue front yard setback.

**STANDARD FOR A VARIANCE:**

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

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

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

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

**STAFF RECOMMENDATION (front yard setback variances):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) (NSO 4) in that it is a triangular-shaped lot with two 30' front yard setbacks. The atypical two front yard setbacks on this triangular-shaped lot preclude it from being developed in a manner commensurate with development on other similarly zoned properties.
- The applicant has submitted a document establishing that the maximum length of any side of the proposed home in this application/subject site would be approximately 85' in length, and that this size of home could be developed on any other comparable lot with a typical lot depth of about 125', that is of regular shape, and with one front yard setback in the R-7.5(A) (NSO 4) zoning district.

**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.

**Zoning:**

- Site:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- North:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- South:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- East:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- West:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)

**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:**

January 25, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 13, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 21, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

March 6, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).

March 8, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment C).

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

**GENERAL FACTS/STAFF ANALYSIS (front yard variances):**

- These requests focus on demolishing an existing single family home on the site and replacing it with a single family home structure, part of which would be located in the site's two 30' front yard setbacks along Sondra Avenue and Marquita Avenue.
- Structures on lots zoned R-7.5(A)(NSO 4) are required to provide a minimum front yard setback of 30'.
- The subject site is located at the intersection of Sondra Avenue and Marquita Avenue. Regardless of how the proposed single family structure is to be oriented, the subject site has two 30' front yard setbacks along both streets.
- A site plan has been submitted denoting a portion of the proposed single family home located as close as 20' 6" from the site's front property line along Sondra Avenue (or 9' 6" into this 30' front yard setback); and located as close as 22' 1" from the site's front property line along Marquita Avenue (or 7' 11" into this 30' front yard setback).
- According to information that the applicant emailed the Board Administrator (see Attachment B), the approximate "living area" of the "main improvement" of the proposed single family home structure will be 3,457 square feet, the approximate "additional improvement" of an attached garage will be 510 square feet, and the total square feet will be 3,967 square feet.
- The applicant has stated that the approximate square footage of the home to be in the Sondra Avenue front yard setback to be 730 square feet and the approximate square footage of the home to be in the Marquita Avenue front yard to be 200 square feet.
- According to DCAD records, that the "main improvements" at 6422 Sondra Drive is a structure built in 1946 with 2,084 square feet of living area, 2,084 square feet of total area; and that the "additional improvements" is a 300 square foot attached carport.
- The subject site is irregular in shape and is according to the application, 0.26 acres (or approximately 11,300 square feet) in area. The site is zoned R-7.5(A)(NSO 4) where lots are typically 7,500 square feet in area. (Note that NSO- Neighborhood Stabilization Overlay- 4 was created in August of 2007).
- The site has two 30' front yard setbacks; and one 5' side yard setback; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- There is a 12' – 68' width of developable space once two 30' front yard setbacks and a 5' side yard setback would be accounted for on the virtually triangular-shaped lot.
- The applicant submitted a document (see Attachment C) stating that the maximum length of any side of the proposed home in this application would be approximately 85' in length, and that this size of home could be developed on any other comparable lot with a typical lot depth of about 121 feet, that is of regular shape, and with one front yard setback in the R-7.5(A) (NSO 4) zoning district.
- The applicant has the burden of proof in establishing the following:

- That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variances are 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 R-7.5(A) (NSO 4) zoning classification.
- The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A)(NSO 4) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which is a structure to be located as close as 20’ 6” from one of the two site’s front property lines (or as much 9’ 6” into one of the site’s two 30’ front yard setbacks).

**GENERAL FACT /STAFF ANALYSIS (fence height special exception):**

- This request focuses constructing and maintaining an 8’ 6” high solid wood fence in the site’s 30’ front yard setback along Marquita Avenue. (No fence is proposed in the site’s 30’ front yard setback along Sondra Avenue).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- The applicant had submitted a scaled site plan and an elevation that shows the proposal in the Marquita Avenue front yard setback reaches a maximum height of 8’ 6”.
- The following additional information was gleaned from the submitted site plan:
  - Approximately 68’ in length parallel to Marquita Avenue (and approximately 23 in length perpendicular on the sided of the site in this required front yard setback), approximately on this front property line or approximately 12’ from the pavement line where two homes would have direct frontage to the proposal - homes with no fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences higher than 4’ in the immediate area.
- As of March 11, 2013, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8’ 6” in height) will not adversely affect neighboring property.
- Granting this special exception of 4’ 6” with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal

exceeding 4' in height in the Marquita Avenue front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013**

APPEARING IN FAVOR: Grayson Wafford, 6422 Sondra, Dallas, TX

APPEARING IN OPPOSITION: James Scott, 6427 Vanderbilt Ave., Dallas, TX  
Kerry Robichaux, 6431 Sondra Dr., Dallas, TX  
John Hamilton, 6441 Sondra, Dallas, TX  
Jonathan Phillips, 6428 Marquita Ave., Dallas, TX

**MOTION #1: Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 123-026**, on application of Grayson Wafford, grant a 9 foot 6 inch variance along Sondra Avenue to the minimum front yard setback regulations and an 8 foot variance along Marquita Avenue to the minimum front yard setback regulations because our evaluation of the property and the testimony shows that physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Lewis**

AYES: 4–Maten, Coulter, Richard, Lewis

NAYS: 1 – Richardson,

MOTION PASSED: 4– 1

**MOTION #2: Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 123-026**, on application of Grayson Wafford, hold the fence height special exception under advisement until **April 15, 2013**.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Lewis

NAYS: 0 –

MOTION PASSED: 5– 0(unanimously)

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**FILE NUMBER:** BDA 123-027

**BUILDING OFFICIAL'S REPORT:** Application of Kim Hlas, represented by Steve Benson, for a special exception to the sign regulations at 4925 Greenville Avenue. This property is more fully described as Lot 1B in City Block C/5188 and is zoned MU-3, which allows only one detached sign per street frontage. The applicant proposes to construct and maintain one additional detached premise sign, which will require a special exception to the sign regulations.

**LOCATION:** 4925 Greenville Avenue

**APPLICANT:** Kim Hlas  
Represented by Steve Benson

**REQUEST:**

A special exception to the sign regulations is requested in conjunction with erecting and maintaining a detached "property ID, double sided pylon" sign along the site's Greenville Avenue street frontage on a site limited to one sign per street frontage on a site developed with an office park (Energy Square).

**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:**

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on a premise in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

**STAFF RECOMMENDATION:**

Approval

Rationale:

- Staff has concluded that strict compliance with the requirement of the sign regulations in this case (one sign for the site's approximately 600 linear feet of frontage along Greenville Avenue) will result in inequity to the applicant. The applicant's representative has stated how the same 600 linear feet directly east of the site on Greenville Avenue is afforded 8 individual signs given that there are 8 individually plated lots. The applicant's representative has also stated how an inequity would occur without a second property identification sign on the site's Greenville Avenue frontage since the single platted lot/subject site is approximately 600 feet in length, and the fact that an existing building on the site is located very close to the Greenville Avenue front property line - conditions/features creating a

situation where without a second sign, building visitors travelling southbound on Greenville Avenue miss entry into the site.

- Approval of this special exception would merely allow an additional sign on the property's approximately 600 linear feet of Greenville Avenue street frontage, and not provide any other exception to the sign regulations pertaining to the additional sign's setback, height, or effective area.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: MU-3 (Mixed use)  
North: MU-3 (Mixed use)  
South: MU-3 (Mixed use)  
East: MU-3 (Mixed use)  
West: MU-3 (Mixed use)

### **Land Use:**

The site is currently developed as an office park (Energy Square). The areas to the north, south, east, and west are developed with office and retail uses.

### **Zoning/BDA History:**

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

### **Timeline:**

January 25, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

February 13, 2013: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 25, 2013: The applicant's representative submitted additional information to the Board Administrator beyond what was submitted in the original application (see Attachment A).

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

#### **GENERAL FACTS/STAFF ANALYSIS:**

- The request focuses on erecting and maintaining an additional sign on the subject site, more specifically a detached "property ID, double sided pylon" sign to be located at the intersection of Greenville Avenue and University Boulevard on a site developed with an office park (Energy Square).
- The Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways, and that one expressway sign is allowed for every 450 feet of frontage or fraction thereof on an expressway. (The subject site's frontage is an expressway).
- The subject site at the northwest corner of Greenville Avenue and University Boulevard is limited to one sign per street frontage.
- The applicant's representative submitted a site plan indicating three signs on the property. The site plan notes an "entry monument" sign on University Boulevard, an "entry monument" sign on Greenville Avenue, and a "major identity pylon" sign at the intersection of Greenville Avenue and University Boulevard.
- The applicant's representative has also submitted a sign elevation of the "property ID double sided pylon" sign showing that is 6' 6" high and about 6' 6" wide.
- Building Inspection staff has stated that the additional sign in this application near the intersection of Greenville Avenue and University Boulevard is to erect and maintain a second sign on the site's Greenville Avenue frontage.
- The applicant's representative has stated how the same 600 linear feet directly east of the site on Greenville Avenue is afforded 8 individual signs given that there are 8 individually plated lots. The applicant's representative has also stated how an inequity would occur without a second property identification sign on the site's Greenville Avenue frontage since the single plated lot/subject site is approximately 600 feet in length, and the fact that an existing building on the site is located very close to the Greenville Avenue front property line. These features/conditions of the

subject site create a situation where without a second sign, building visitors travelling southbound on Greenville Avenue miss entry into the site.

- The applicant has the burden of proof in establishing the following:
  - That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the Greenville Avenue street frontage) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- If the Board were to approve the request for a special exception to the sign regulations, the Board may consider imposing a condition that the applicant complies with the submitted site plan and elevation.
- Granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code other than allowing an additional sign on the subject site.

**BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013**

APPEARING IN FAVOR: Steve Benson, 2611 Andjon Dr., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Coulter**

I move that the Board of Adjustment, in Appeal No. **BDA 123-027**, on application of Kim Hlas, grant the special exception to allow an additional detached premise sign, because our evaluation of the property and the testimony shows that strict compliance with the provisions of Article VII of the Dallas Development Code will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the City of Dallas and its citizens in accomplishing the objectives of that article.

SECONDED: **Richard**

AYES: 5– Richardson, Maten, Coulter, Richard, Lewis

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

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MOTION: **Maten**

I move to adjourn this meeting.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Lewis

NAYS: 0 –

MOTION PASSED: 5 – 0 (Unanimously)

**3:15 P. M.** - Board Meeting adjourned for **March 18, 2013.**

CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

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