

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY HALL, COUNCIL CHAMBERS
MONDAY, JUNE 13, 2005**

MEMBERS PRESENT AT BRIEFING: Frank Madrigal, Vice-Chair, Dave Neumann, alternate member, Linda Wise, alternate member and Maria Gomez, alternate member

MEMBERS ABSENT FROM BRIEFING: Suzanne Smith, regular member and David Chortek, regular member

MEMBERS PRESENT AT HEARING: Frank Madrigal, Vice-Chair, Dave Neumann, alternate member, Linda Wise, alternate member, and Maria Gomez, alternate member

MEMBERS ABSENT FROM HEARING: Suzanne Smith, regular member and David Chortek, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Ileana Fernandez, Asst. City Attorney, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Donnie Moore, Chief Planner, Jennifer Pitner, Senior Planner, Michael Sultan, Chief Arborist and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Ileana Fernandez, Asst. City Attorney, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Donnie Moore, Chief Planner, Jennifer Pitner, Senior Planner, Michael Sultan, Chief Arborist and Trena Law, Board Secretary

10:16 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 13, 2005** docket.

1:10 P.M.

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C May 16, 2005 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

MOTION: Neumann

I move approval of the Monday, May 16, 2005, Board of Adjustment Public Hearing minutes.

SECONDED: Wise

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-223

BUILDING OFFICIAL’S REPORT:

Application of Ledell and Betty Brown for a special exception to the side yard setback regulations at 3014 Kinmore Street. This property is more fully described as Lot 4 in City Block L/2112 and is zoned R 7.5 (A) which requires a 5 foot side yard setback. The applicant proposes to maintain a carport and provide a 1 foot setback which would require a special exception of 4 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 3014 Kinmore Street

APPLICANT: Ledell and Betty Brown

REQUEST:

- A special exception to the side yard setback regulations of 4’ is requested in conjunction with maintaining a carport on a site developed with a single family home.

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 is located 1' from the site's eastern side property line.
- The existing carport has the following characteristics:
 - 48' x 11' (or 528 square feet) in area
 - one-vehicle-wide, three-vehicles-long
 - constructed of metal materials
 - 8' 2" in height
- The subject site is 145' x 50' (or 7,250 square feet) in area.
- According to DCAD, the site is developed with a single family home in fair condition built in 1925 with 1,113 square feet of living area.
- Building Inspection states that no permit was issued by the City for the existing carport on this site.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the 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 side yard setback with a different basis for appeal than that of *special exceptions for carports* in the 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 145'-long lot.

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:

1. Unassigned, 3014 Kinmore Street (the subject site) On March 14, 2005, the Board of Adjustment Panel C waived the filing fee to be submitted in conjunction with a potential board appeal.

Timeline:

- April 21, 2005 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: 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."
- May 23, 2005: The Board Administrator wrote the applicant a letter that conveyed the following information:
- the public hearing date and panel that will consider the application;
 - the 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;

- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

STAFF ANALYSIS:

- Granting this special exception would allow the carport to remain in its current location which is 1’ away from the side property line (or 4’ into the required 5’ side yard setback).
- The applicant has submitted a petition from neighbors/owners who support the request. (This petition has been included in the case report).
- 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 side yard setback; would require the carport in the side yard setback 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.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gomez

I move that the Board of Adjustment **grant** application **BDA 045-223** 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:

- The carport must remain open at all times.
- There must be no lot-to-lot drainage in conjunction with this proposal.
- All applicable building permits must be obtained.
- Compliance with the submitted site plan is required.
- No item (other than a motor vehicle) may be stored in the carport.

SECONDED: Wise

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-231

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6116 Winton Street. This property is more fully described as Lot 21 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6116 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate

columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a "plan enlargement" of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6' HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
- "6.5' BRICK ACCENT COLUMN WITH PRECAST CAP"
- "4' DECORATIVE IRON GATE."
- "SHADE OR ORNAMENTAL TREE."

- “SHRUB BEDS (TYP.).”
- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240) In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

- April 29, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-231** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-232

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6120 Winton Street. This property is more fully described as Lot 20 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6120 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate columns in the 20’-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4’ in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:

1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
2. a "plan enlargement" of this plan,
3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6" HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
- "6.5' BRICK ACCENT COLUMN WITH PRECAST CAP"
- "4' DECORATIVE IRON GATE."
- "SHADE OR ORNAMENTAL TREE."
- "SHRUB BEDS (TYP.)."

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.

- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

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| <p>1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)</p> | <p>In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.</p> |
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Timeline:

- April 29, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket;

- 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
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May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6’), and pedestrian gate columns (6.5’), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2’ 6” with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gomez

I move that the Board of Adjustment **grant** application **BDA 045-232** 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 fence elevation is required.

SECONDED: Wise

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-233

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6124 Winton Street. This property is more fully described as Lot 19 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6124 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate columns in the 20’-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4’ in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:

1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
2. a "plan enlargement" of this plan,
3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6" HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
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- "4' DECORATIVE IRON GATE."
- "SHADE OR ORNAMENTAL TREE."
- "SHRUB BEDS (TYP.)."

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.

- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
South: R-7.5 (A) (Single family district 7,500 square feet)
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West: R-7.5 (A) (Single family district 7,500 square feet)

Land Use:

The subject site is undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

- | | |
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| <p>1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)</p> | <p>In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.</p> |
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Timeline:

- April 29, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
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- 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket;

- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6’), and pedestrian gate columns (6.5’), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2’ 6” with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gomez

I move that the Board of Adjustment **grant** application **BDA 045-233** 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 fence elevation is required.

SECONDED: Wise

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-234

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6128 Winton Street. This property is more fully described as Lot 18 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6128 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate columns in the 20’-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4’ in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a "plan enlargement" of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6' HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
 - "6.5' BRICK ACCENT COLUMN WITH PRECAST CAP"
 - "4' DECORATIVE IRON GATE."
 - "SHADE OR ORNAMENTAL TREE."
 - "SHRUB BEDS (TYP.)."
- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
 - The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240) In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

- April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-234** 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 fence elevation is required.

SECONDED: Wise

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-235

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6132 Winton Street. This property is more fully described as Lot 17 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6132 Winton Street

APPLICANT: Perry Homes, represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate columns in the 20’-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4’ in height).

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.

- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a "plan enlargement" of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6' HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
- "6.5' BRICK ACCENT COLUMN WITH PRECAST CAP"
- "4' DECORATIVE IRON GATE."
- "SHADE OR ORNAMENTAL TREE."
- "SHRUB BEDS (TYP.)."

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5 (A) (Single family district 5,000 square feet)
- North: CR (Community retail)
- 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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

- | | |
|---|--|
| 1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240) | In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking. |
|---|--|

Timeline:

April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the

Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-235** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-236

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6136 Winton Street. This property is more fully described as Lot 16 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6136 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2’ 6” is requested in conjunction with constructing a 6’-high brick wall with two, 6.5’-high pedestrian gate columns in the 20’-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4’ in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660’, and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6’-high, and only include a pedestrian gate with vehicular access restricted

to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.

- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a “plan enlargement” of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a “detail elevation” of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3’ from the front property line and approximately 10’ from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3’ from the property line and approximately 10’ from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- “6’ HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. ‘BRAZOS BLEND’ BY BORAL.”
 - “6.5’ BRICK ACCENT COLUMN WITH PRECAST CAP”
 - “4’ DECORATIVE IRON GATE.”
 - “SHADE OR ORNAMENTAL TREE.”
 - “SHRUB BEDS (TYP.).”
- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
 - The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240) In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

- April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-236** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-237

BUILDING OFFICIAL'S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6140 Winton Street. This property is more fully described as Lot 15 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6140 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6'-high brick wall with two, 6.5'-high pedestrian gate columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.

- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a “plan enlargement” of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a “detail elevation” of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3’ from the front property line and approximately 10’ from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3’ from the property line and approximately 10’ from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- “6’ HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. ‘BRAZOS BLEND’ BY BORAL.”
- “6.5’ BRICK ACCENT COLUMN WITH PRECAST CAP”
- “4’ DECORATIVE IRON GATE.”
- “SHADE OR ORNAMENTAL TREE.”
- “SHRUB BEDS (TYP.)”

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5 (A) (Single family district 5,000 square feet)
- North: CR (Community retail)
- 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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the In August of 2005, the City Council granted

subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)

a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-237** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-238

BUILDING OFFICIAL'S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6142 Winton Street. This property is more fully described as Lot 14 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6142 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6'-high brick wall with two, 6.5'-high pedestrian gate columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.

- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a “plan enlargement” of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a “detail elevation” of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3’ from the front property line and approximately 10’ from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3’ from the property line and approximately 10’ from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- “6’ HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. ‘BRAZOS BLEND’ BY BORAL.”
- “6.5’ BRICK ACCENT COLUMN WITH PRECAST CAP”
- “4’ DECORATIVE IRON GATE.”
- “SHADE OR ORNAMENTAL TREE.”
- “SHRUB BEDS (TYP.)”

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5 (A) (Single family district 5,000 square feet)
- North: CR (Community retail)
- 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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the In August of 2005, the City Council granted

subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)

a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-238** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-239

BUILDING OFFICIAL'S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6144 Winton Street. This property is more fully described as Lot 13 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6144 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6'-high brick wall with two, 6.5'-high pedestrian gate columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.

- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a “plan enlargement” of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a “detail elevation” of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3’ from the front property line and approximately 10’ from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3’ from the property line and approximately 10’ from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- “6’ HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. ‘BRAZOS BLEND’ BY BORAL.”
- “6.5’ BRICK ACCENT COLUMN WITH PRECAST CAP”
- “4’ DECORATIVE IRON GATE.”
- “SHADE OR ORNAMENTAL TREE.”
- “SHRUB BEDS (TYP.)”

- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5 (A) (Single family district 5,000 square feet)
- North: CR (Community retail)
- 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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the In August of 2005, the City Council granted

subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)

a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION:

I move that the Board of Adjustment **grant** application **BDA 045-239** 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 fence elevation is required.

SECONDED:

AYES: 4– Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-240

BUILDING OFFICIAL'S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6146 Winton Street. This property is more fully described as Lot 12 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front

yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6146 Winton Street

APPLICANT: Perry Homes
Represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6'-high brick wall with two, 6.5'-high pedestrian gate columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a "plan enlargement" of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and

4. a “detail elevation” of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3’ from the front property line and approximately 10’ from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3’ from the property line and approximately 10’ from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- “6’ HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. ‘BRAZOS BLEND’ BY BORAL.”
 - “6.5’ BRICK ACCENT COLUMN WITH PRECAST CAP”
 - “4’ DECORATIVE IRON GATE.”
 - “SHADE OR ORNAMENTAL TREE.”
 - “SHRUB BEDS (TYP.).”
- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
 - The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-5 (A) (Single family district 5,000 square feet)
<u>North:</u>	CR (Community retail)
<u>South:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>East:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>West:</u>	R-7.5 (A) (Single family district 7,500 square feet)

Land Use:

The subject site is undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240) In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.

Timeline:

April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).

- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-240** 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 fence elevation is required.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, JUNE 13, 2005

FILE NUMBER: BDA 045-222

BUILDING OFFICIAL'S REPORT:

Application of Anthony Thomas Fertitta and Mary Fertitta for a special exception to the fence regulations at 9824 Rockbrook Drive. This property is more fully described as Lot 44C in City Block 5543 and is zoned R-1Ac (A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to maintain an 11 foot 2 inch fence in the required front yard setback which would require a special exception of 7 feet 2 inches. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 9824 Rockbrook Drive

APPLICANT: Anthony Thomas Fertitta and Mary Fertitta

June 13, 2005 Public Hearing Notes:

- The applicant submitted a revised site plan at the public hearing that he said established the location of the fence, columns, and gate relative to the site's property line and Rockbrook Drive pavement line.

REQUEST:

- A special exception to the fence height regulations of 7' 2" is requested in conjunction with maintaining an open wrought iron picket fence with brick columns, and entry gate in the 40'-Rockbrook Drive front yard setback on a site developed with a single family home.

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.
- A site plan and support documentation including drawings has been submitted with the application. These documents provide no clear representation of where the fence and gate are currently located on the site. Some contradictory information exists among the documents, however, staff makes the following assumptions based on the submitted information:
 - The existing fence is located parallel to Rockbrook Drive;
 - The existing fence is approximately 185 feet long along Rockbrook Drive;
 - The existing fence is located either 7.5' away from or on the property line;
 - The existing fence is located either 11' or 16' from the Rockbrook Drive pavement line;
 - A recessed entryway with a gate is located 21' from the property line and 24' from the edge of street;
 - Brick gate columns are 10' 8" and 11' 1/4" in height;
 - Gate Height is 6' 6";
 - Fence column heights range from 6' 8" – 6' 11" (one drawing shows a column height of 5.4');
 - Fence panel sections have "Avg. Ht." ranging from 68" – 71";
 - Fence panel sections are comprised of 1/2" pickets @ 4" (typ);

- There is no definitive representation of landscape materials on a plan to be planted or retained near the existing fence in conjunction with this appeal.
- The existing fence is located on a site where three single family homes have direct/indirect frontage one of which has a fence higher than 4' in their front yard setback that was "excepted" by the board several years ago (see the "Zoning/BDA History" section of this case report for further details). The other two homes that "front" the existing fence are located behind significant landscape materials.
- The Board Administrator conducted a field visit of the site and surrounding area along Rockbrook Drive from Beechwood Lane north to Meadowood Drive and noted the following fence which appeared to be located in the front yard setback:
 - A 6'-high open metal fence with 6' high columns one lot south of the site;
 - A 6'-high open metal fence behind significant landscape materials west of the site (see the "Zoning/BDA History" section of this case report for further details); and
 - A 6'-foot open chain link fence behind significant landscape materials north of the site.
 (Note that these locations and dimensions are approximations).
- The applicant submitted eight letters of support from neighboring property owners (see Attachment B).
- Building Inspection states that no permit was issued by the City for the fence on this site.

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:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. BDA034-178, 9863 Rockbrook Drive (two lots northwest of the subject site) | <p>On April 18, 2005, the Board of Adjustment Panel C denied a request for a special exception to the fence height special exception of 4' without prejudice. The appeal was requested in conjunction with constructing a 6'-high open fence with 6.5'-high masonry columns, and maintaining an 8'-high wall.</p> |
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2. BDA88-063, 9844 Rockbrook Drive (the lot at the southeast corner of Rockbrook Drive and Meadowood Road, one lot north of the site) On May 10, 1988, the Board of Adjustment followed the staff recommendation and granted the appeals as requested for a variance to the front yard setback regulations of 30' and a "variance" to the fence regulations of 4 feet. The case report indicates that the front yard variance was requested for to maintain a swimming pool in the Meadowood Drive front yard setback, and an 8' high chain link fence.
3. BDA95-063, 9815 Rockbrook Drive (two lots southwest of the subject site) On May 23, 1995, the Board of Adjustment followed the staff recommendation and denied a request for a variance to the height regulations of 3', granted a special exception to the single family regulations, and denied a request for a special exception to the fence height regulations of 7 feet. The case report indicated that the height variance was requested in conjunction with a home that would reach 53' in height, a special exception to the single family regulations for a home with an additional kitchen in a cabana, and a fence special exception to erect a 10' high open metal fence with 11' high masonry columns.
5. BDA92-051, 9839 Rockbrook Drive (the lot west of the subject site) On June 23, 1992, the Board of Adjustment followed the staff recommendation and granted a request for a special exception to the fence height regulations of 4' 4". The board imposed the following condition: That the gate and driveway meet all requirements of the visibility obstruction provided in the Dallas Development Code. The case report indicated that request was to maintain a wrought iron and chain link fence with "an average height of 7 feet with a maximum height of 8' 4").
6. BDA012-139, 9908 Rockbrook Drive (the lot located at the northeast corner of Rockbrook Drive and Meadowood Road, two lots north of the site) On February 26, 2002, the Board of Adjustment Panel A followed the staff recommendation and granted a request for a special exception to the fence height regulations of 2' 6" and imposed the following conditions: Compliance with the submitted site/fence elevation plan and landscape plan is required; and the existing landscaping (hedge) shall remain in place

along the entire length of the 6' high vinyl coated (black) cyclone fence along Meadowood Road, or when needed must be replaced and retained with minimum 6' height at maturity such that the entire length of the fence will not be visible from Meadowood Road. The case report states that the special exception was requested in conjunction with erecting a "6' 0" high vinyl coated (black) cyclone fence" in the Meadowood Road front yard to replace a "6' 6" high existing galvanized cyclone fence." (The request did not include any proposed fence in the Rockbrook Drive front yard setback).

Timeline:

April 11, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 2005: The Board Administrator contacted the applicant and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 25, 2005 The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information

included a plan that indicated column heights that were inadvertently omitted on the originally submitted elevation.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

June 1, 2005 The applicant submitted eight letters of support of the request from neighboring property owners (see Attachment B).

STAFF ANALYSIS:

- A site plan has been submitted that does not clearly document the location of the existing fence and gate relative to the site's property line and the pavement line or curb line of the street.
- Documentation has been submitted that includes three drawings: an elevation, a "typical section," and what appears to be another site plan. Some of the information on this document contradicts information on the originally submitted site plan.
- If the Board determines that the fence proposal (or as in this case, an existing fence) does not adversely affect neighboring property, the Board grants the request and generally imposes a condition that the applicant comply with the submitted site plan. The Board can choose to impose no site plan as a condition with this request, or to impose one of the two site plans as a condition to this request. Imposing both site plans is not recommended given contradictory information on these two plans.
- A scaled site plan that shows the existing fence, column and gate's location relative to the property line and pavement line is a document that staff believes is a "necessary fact" that the applicant should minimally establish in order to warrant favorable action from the board
- Submittal of an accurate scaled site plan is in the applicant's best interest since it establishes that the fence is on private property. It is at this basic point of documentation where it is established that the board has jurisdiction to consider fence height special exceptions.
- In addition, if the Board determines that the proposal does not adversely affect neighboring property, the Board grants the request and imposes a condition that the applicant comply with the submitted elevation. In this case, however, a section and an elevation have been submitted where some of the information on the submitted section contradicts information shown on the submitted elevation.
- The existing fence, columns, and gate are constructed of durable materials (open iron and brick).
- The fence is located across from three single family homes, one of which has an open metal fence higher than 4' in its front yard setback that was "excepted" by the Board in 1992, the other two homes are located behind significant landscaping.

- As of June 6th, eight letters had been submitted to staff in support of the existing fence, and no letters have been submitted in opposition.
- The applicant has not submitted one set of drawings that has been identified as a definitive scaled site plan and definitive scaled elevation and/or section which provide the actual heights, materials, and location of the existing fence, gate, and columns on the site.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: Anthony Fertitta, 9800 Rockbrook, Dallas, TX
 Randall Goss, 9863 Rockbrook, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Neumann

I move that the Board of Adjustment **grant** application **BDA 045-222** on application of Anthony Thomas Fertitta, **grant** the special exception to the fence regulations and allow the applicant to maintain an 11 foot, 2 inch fence in the required front yard because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan dated June 13, 2005 and fence elevation is required.

SECONDED: Gomez

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-230

BUILDING OFFICIAL’S REPORT:

Application of Perry Homes, represented by Kirk Williams for a special exception to the fence regulations at 6112 Winton Street. This property is more fully described as Lot 22 in City Block E/2870 and is zoned R-5 (A) which limits the height of a fence in the front yard to 4 feet. 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. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6112 Winton Street

APPLICANT: Perry Homes, represented by Kirk Williams

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6'-high brick wall with two, 6.5'-high pedestrian gate columns in the 20'-Winton Street front yard setback on a site that is undeveloped. (A decorative iron pedestrian gate is proposed but is permitted by right since the gate is 4' in height).

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.
- This special exception to the fence height regulations is one of 11 cases to be considered by Board of Adjustment Panel C that share the following characteristics: owner, applicant, representative, location (11 cases located in a row fronting Winton Street with the westernmost case (BDA 045-230) beginning at Skillman Street and continuing 11 lots eastward or about 660', and ending with the easternmost case (BDA 045-240) slightly more than mid-block to Norris Street), proposed use (all single family homes), proposed wall design (each wall in the front yard setback will be brick, 6'-high, and only include a pedestrian gate with vehicular access restricted to the rear of the site via the alley on the south side of the sites), and proposed wall location relative to property line and curb line.
- A document has been submitted with the application that includes the following four drawings/images:
 1. a site plan of the site (and remaining 10 lots that are fence special exceptions to the board),
 2. a "plan enlargement" of this plan,
 3. an elevation of the site and remaining 10 lots that are fence special exceptions to the board, and
 4. a "detail elevation" of this elevation.

The overall and detailed site plans indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- Located parallel to Winton Street;
- Approximately 60 feet long along the lots frontage;
- To be located about 3' from the front property line and approximately 10' from the Winton Street curb line; and
- The proposed pedestrian gate to be located about 3' from the property line and approximately 10' from the Winton Street curb line.

The overall and detailed elevations indicate that the proposed wall on this site (and the other 10 sites) has the following characteristics:

- "6' HT. BRICK SINGLE WYTHE WALL. KING SIZE BRICK. 'BRAZOS BLEND' BY BORAL."
- "6.5' BRICK ACCENT COLUMN WITH PRECAST CAP"
- "4' DECORATIVE IRON GATE."
- "SHADE OR ORNAMENTAL TREE."
- "SHRUB BEDS (TYP.)."
- The proposed wall on this site (and the other 10 sites) is located on a site where no single family homes would face the wall.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-5 (A) (Single family district 5,000 square feet)
North: CR (Community retail)
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 undeveloped. The area to the north is developed with retail uses and surface parking lots for these uses; and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

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| <p>1. Z 034-252 (the 11 lots that are the subject sites for BDA 045-230, 231, 232, 233, 234, 235, 236, 237, 238, 239, and 240)</p> | <p>In August of 2005, the City Council granted a request for a change in zoning to R-5(A) on property that had been zoned P(A) Parking.</p> |
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Timeline:

- April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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 has been submitted that documents the location of the proposed wall and pedestrian gate columns relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed wall (6'), and pedestrian gate columns (6.5'), and the building materials of the wall (brick).
- The proposed wall is to be constructed of durable material (brick).
- The proposed wall would be located immediately across from lots that are developed either as retail uses or surface parking lots.
- As of June 6th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted site/landscape/wall elevation plan would assure that the proposed wall and columns are constructed and maintained as shown on this document.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: Jimmy Schnurr, 5400 Renaissance Tower, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment **grant** application **BDA 045-230** 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 fence elevations is required.

SECONDED: **Wise**

AYES: -4 Madrigal, Neumann, Wise, Gomez

NAYS: 0-

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-243

BUILDING OFFICIAL'S REPORT:

Application of Elizabeth D. Shaddock, represented by Ed Simons, for a variance to the front yard setback regulations at 6177 Vickery Boulevard. This property is more fully described as Lot 12 in City Block 3/2157 and is zoned R-7.5(A) which requires a 25 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 5 foot front yard setback which would require a variance of 20 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 6177 Vickery Boulevard

APPLICANT: Elizabeth D. Shaddock
Represented by Ed Simons

June 13, 2005 Public Hearing Notes:

- Staff briefed the Board of Adjustment of an additional Norris Street front yard variance requested for a detached garage that was shown on the submitted site plan. More specifically, staff had spoken with the applicant's representative and confirmed that a 4.5' variance was requested in conjunction with locating a proposed detached garage in the Norris Street 25' front yard setback. (The site plan indicated

that the detached garage would be located 20.5' from the site's Norris Street front property line).

REQUEST:

- A variance to the front yard setback regulations of 20' is requested in conjunction with constructing a single family home. According to the applicant's representative, the proposed single family home would replace a house on the site that does not provide a 25'-front yard setback on Norris Street.

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 R-7.5(A) zoning district.
- The site has two, 25'-front yard setbacks: one on Vickery Boulevard, the other on Norris Street.
- The submitted site plan indicates that the single family home is to be located 5' from the site's front property line on Norris Street. (The proposed location of the single family home is in compliance with the 25' front yard setback on Vickery Boulevard).
- The Dallas Development Code states the following with regard to front yard provisions for residential district:
 - If a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations. If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by this section, and the longer frontage is governed by side yard regulations. Notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.
- The site's longer frontage is along Norris Street, however, this longer frontage is deemed a front yard in order to maintain the established setback of lot/home along this street to the north that "fronts" Norris Street.

- According to the submitted site plan, the proposed single family home is to be two stories, 40'-wide and about 75' long with a building footprint of about 3,100 square feet. The area of the proposed home in the Norris Street front yard setback is about 75' x 20' or 1,500 square feet in area.
- The submitted site plan indicates an approximately 10'-wide portion of land that lies between the Norris Street front property line and the Norris Street pavement line.
- In addition, the site plan indicates that an approximately 770 square foot detached garage is proposed to be located on the site, outside of the front, side, and rear yard setbacks.
- The site is flat, rectangular in shape (200' x 50'), and 10,000 square feet in area.
- According to DCAD, the site is developed with a single family house with 1,099 square feet of living space in "very good" condition built in 1934, and a 480 square foot detached garage.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included a letter that provides further details about the request and why it should be granted.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>South:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>East:</u>	R-7.5 (A) (Single family district 7,500 square feet)
<u>West:</u>	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, south, and west are developed with single family uses; and the area to the east is undeveloped and the subject site in BDA 045-244: a request for a variance to the front yard setback regulations that will be considered by the Board of Adjustment Panel C on June 13, 2005.

Zoning/BDA History:

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| <ol style="list-style-type: none"> 1. BDA045-244, 6203 Vickery Boulevard (the lot immediately east of the subject site) | <p>On June 13, 2005, the Board of Adjustment Panel C will consider a request for a variance to the front yard setback regulations of 20' to construct a single family home.</p> |
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Timeline:

- April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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.
- June 2, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The site is flat, rectangular in shape (200' x 50'), and approximately 10,000 square feet in area. The site has two, 25' front yard setbacks.

- A 20'-wide area for development remains on the 50'-wide site once a 25' front yard setback is accounted for on the east side of the site, and a 5' side yard setback is accounted for on the west side of the site.
- If the Board were to grant the front yard variance request, subject to the submitted site plan, the site could be developed with a single family structure that (according to the site plan) will have about 3,100 square feet of area. The area shown on this plan that encroaches into the Norris Street front yard setback is approximately 1,500 square feet (or 75' x 20') resulting in a 5' front yard setback.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: Ed Simons, 900 Jackson, Dallas, TX
 Jonathan Vinson, 6342 Vickery, Dallas, TX
 David Youngs, 6138 Vickery, Dallas, TX

APPEARING IN OPPOSITION: Sonya Gomez, 6170 Vickery, Dallas, TX

MOTION: Neumann

I move that the Board of Adjustment, in Appeal No. **BDA 045-243**, on application of Elizabeth D. Shaddock, **grant** the 20 foot variance to the front yard setback regulations, because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Gomez**
AYES: 4 – Madrigal, Neumann, Wise, Gomez
NAYS: 0–
MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-244

BUILDING OFFICIAL’S REPORT:

Application of Elizabeth D. Shaddock, represented by Ed Simons, for a variance to the front yard setback regulations at 6203 Vickery Boulevard. This property is more fully described as Lot 1 in City Block 4/2159 and is zoned R-7.5(A) which requires a 25 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 5-foot front yard setback which would require a variance of 20 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 6203 Vickery Boulevard

APPLICANT: Elizabeth D. Shaddock
Represented by Ed Simons

June 13, 2005 Public Hearing Notes:

- Staff briefed the Board of Adjustment of an additional Norris Street front yard variance requested for a detached garage that was shown on the submitted site plan. More specifically, staff had spoken with the applicant's representative and confirmed that a 4.5' variance was requested in conjunction with locating a proposed detached garage in the Norris Street 25' front yard setback. (The site plan indicated that the detached garage would be located 20.5' from the site's Norris Street front property line).

REQUEST:

- A variance to the front yard setback regulations of 20 feet* is requested in conjunction with constructing a single family home on a site that is undeveloped.
- * Note that there is a small discrepancy from the provided setback indicated on the application (5') verses the provided setback indicated on the submitted site plan (5' 2").

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 R-7.5(A) zoning district.
- The site has two, 25'-front yard setbacks: one on Vickery Boulevard, the other on Norris Street.
- The submitted site plan indicates that the single family home is to be located 5' 2" from the site's front property line on Norris Street. (The proposed location of the

single family home is in compliance with the 25' front yard setback on Vickery Boulevard).

- The Dallas Development Code states the following with regard to front yard provisions for residential district:
 - If a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations. If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by this section, and the longer frontage is governed by side yard regulations. Notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.
- The site's longer frontage is along Norris Street, however, this longer frontage is deemed a front yard in order to maintain the established setback of lot/home along this street to the north that "fronts" Norris Street.
- According to the submitted site plan, the proposed single family home is to be 40'-wide and about 78' long with a building footprint of about 3,100 square feet. The area of the proposed home in the Norris Street front yard setback is about 78' x 20' or 1,600 square feet in area.
- The submitted site plan indicates an approximately 10'-wide portion of land that lies between the Norris Street front property line and the Norris Street pavement line.
- In addition, the site plan indicates that an approximately 735 square foot detached garage is proposed to be located on the site, outside of the front, side, and rear yard setbacks.
- The site is flat, rectangular in shape (200' x 50'), and 10,000 square feet in area.
- According to DCAD, the site is developed with a single family house with 1,386 square feet of living space in "good" condition built in 1925. (A field visit documents that this structure has been demolished).
- According to the applicant's representative, the former house on the site that did not provide a 25'-front yard setback on Norris Street.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included a letter that provides further details about the request and why it should be granted.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are developed with single family uses. The lot to the west is the subject site in BDA 045-

243: a request for a variance to the front yard setback regulations that will be considered by the Board of Adjustment Panel C on June 13, 2005.

Zoning/BDA History:

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| 1. BDA045-243, 6177 Vickery Boulevard (the lot immediately west of the subject site) | On June 13, 2005, the Board of Adjustment Panel C will consider a request for a variance to the front yard setback regulations of 20' to construct a single family home. |
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Timeline:

- April 29, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, 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.

June 2, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The site is flat, rectangular in shape (200' x 50'), and approximately 10,000 square feet in area. The site has two, 25' front yard setbacks.
- A 20'-wide area for development remains on the 50'-wide site once a 25' front yard setback is accounted for on the west side of the site, and a 5' side yard setback is accounted for on the east side of the site.
- If the Board were to grant the front yard variance request, subject to the submitted site plan, the site could be developed with a single family structure that (according to the site plan) will have about 1,600 square feet of area. The area shown on this plan that encroaches into the Norris Street front yard setback is approximately 1,600 square feet (or 78' x 20') resulting in a 5' 2" front yard setback.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: Ed Simons, 900 Jackson, Dallas, TX
Jonathan Vinson, 6342 Vickery, Dallas, TX
David Youngs, 6138 Vickery, Dallas, TX

APPEARING IN OPPOSITION: Sonya Gomez, 6170 Vickery, Dallas, TX
Steven Graham, 6167 Vickery, Dallas, TX

MOTION: Wise

I move that the Board of Adjustment, in Appeal No. **BDA 045-244**, on application of Elizabeth D. Shaddock, **grant** the 20 foot variance to the front yard setback regulations, because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: Neumann

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0(unanimously)

FILE NUMBER: BDA 045-224

BUILDING OFFICIAL’S REPORT:

Application of Ross/Henderson Development Group. LLC., represented by United Equities, Inc. for a special exception to the parking regulations at 5334-A Ross Avenue. This property more fully described as Lot 1A in City Block A/1485 and is zoned CR which requires parking to be provided for retail uses. The applicant proposes to convert a Suite from retail to a restaurant and provide 450 spaces of the required 474 spaces which would require a special exception of 24 parking spaces or 5%. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5334-A Ross Avenue

APPLICANT: Ross/Henderson Development Group. LLC.,
Represented by United Equities, Inc.

REQUEST:

- A special exception to the off-street parking regulations of 24 spaces is requested in conjunction with a restaurant occupying an outparcel space on a site developed with a shopping center and a remote parking lot.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city’s thoroughfare plan.

- (E) The availability of public transit and the likelihood of its use.
- (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The subject properties consist of the shopping center at the east corner of Ross and Henderson Avenues (“primary site”), and a remote parking lot located on Hudson Street (“parking site”, labeled as Parcel 2 on the site plan). The restaurant use will be a tenant in the shopping center in the outparcel space located closest to Ross Avenue, formally a Blockbuster Video retail store.
- The parking site has deed restrictions for limiting the use to parking.
- The owner of the primary site is also the owner of the parking site.
- The primary site provides 391 spaces and the parking site provides 59 spaces.
- The Dallas Development Code states the parking requirements for the following uses:
 - 1 space per 200 square feet of retail floor area;
 - 1 space per 200 square feet of medical office
 - 1 space per 333 square feet of office floor area; and
 - 1 space per 100 square feet of restaurant floor area.
- The applicant is proposing to provide 450 (or 95%) of the total 474 required off-street parking spaces.
 - 402 spaces for the retail uses;
 - 22 spaces for the office uses; and
 - 50 spaces for the restaurant uses.

USE	TOTAL TENANT SF	TOTAL TENANT PER APPLICANT	1 SPACE PER SF	REQUIRE D SPACES	REQUIRED SPACES PER AP.
Restaurant	5,000	5,000	100	50	50
Retail	80,341	80,341	200	402	402
Medical Office	4,500	0	200	23	0
Office	2,800	7,300	333	8	22

TOTAL SPACES REQUIRED	483	474
TOTAL SPACES PROVIDED	450	450
DEFICIT	33	24

- The amount of parking requested by the applicant did not differentiate between office and medical office for the dental office in suite 800. The parking requirement for medical office is higher than office. The parking special exception needed is therefore for 33 spaces instead of 24 spaces. The advertising and noticing stated a request for 24 spaces and will need to be sent again for the August 2005 public hearing to reflect the correct number of spaces required. This changes the percent request from 5.1% to 6.8% which is still under the 25% limitation of the special exception.
- On June 1, 2005, the applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included a parking survey for the typical activity at the shopping center.
- There are 10 DART bus stops within 500 feet of the subject properties (see Attachment B).

BACKGROUND INFORMATION:

Zoning:

Primary Site: CR (Community Retail)
North: CR (Community Retail)
South: MF-2 and MC-1 (Multifamily and Multiple Commercial)
East: CR (Community Retail)
West: PD No. 462 (Planned Development District 462)

Parking Site: CR (Community Retail)
North: CR (Community Retail)
South: P (Parking)
East: MF-2 (Multifamily)
West: CR (Community Retail)

Land Use:

The primary site is developed with a shopping center. The area to the north is developed with retail and restaurants; the area to the south is a church and senior housing; the area to the east is developed with a restaurant, gas station, and retail uses;

and the area to the west is developed with school, retail, gas station, and an undeveloped area.

The parking site is a fenced and gated parking lot. The areas to the north, east, are developed with single family uses; the area to west is developed with a restaurant use; the area to the south is a parking lot use.

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 sites.

Timeline:

April 26, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 21, 2005: 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 requests;
- 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 June 1st deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Department

Transportation Engineer; Senior Planner Pitner and the Assistant City Attorney to the Board.

A review comment sheet was submitted by the Development Services Transportation Engineer in conjunction with this application dated May 26, 2005. The engineer commented that he has no objections but suggested a parking survey. On June 3, 2005, the Development Services Transportation Engineer provided revised comments on the parking survey.

June 1, 2005: The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The Development Services Transportation Engineer had no objection on May 26, 2005 and after reviewing the parking survey provided on June 3, 2005 provided additional comments. He stated his observations of the parking survey and reaffirmed that he has no objection.
- The shopping center parking was in compliance before this request for the restaurant use. The parking spaces required for the combination of office, medical office, and retail uses was 433 spaces. 450 spaces were provided, a surplus of 17 parking spaces.
- The applicant verbally indicated that the shopping center may have customers and employees walk from the nearby neighborhood. There are also 10 DART bus stops within 500 feet of the subject properties that increase the feasibility of accessing the shopping center by means other than a vehicle.
- Granting this request, subject to the condition that the special exception automatically and immediately terminates if and when the restaurant use on the site is changed or discontinued, and would allow the restaurant to occupy the outparcel space in the shopping center.
- If the combination of retail, office, and restaurant uses change, the parking calculations will need to be reevaluated. Any increase in parking needs above the 450 spaces provided will require a new special exception to comply with the parking requirements.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment in Appeal No. **BDA 045-224**, hold this matter under advisement until **August 15, 2005**.

SECONDED: **Wise**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-229

BUILDING OFFICIAL’S REPORT:

Application of Doug Ralston, represented by Ryan Bibb Consultants, for a special exception to the landscape regulations at 9203 Denton Drive. This property is more fully described as a tract of land in City Block 5773 and is zoned IR which requires landscaping to be provided with new construction. The applicant proposes to construct an addition and provide an alternate landscape plan which would require a special exception to the landscape regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 9203 Denton Drive

APPLICANT: Doug Ralston
Represented by Ryan Bibb Consultants

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with increasing non-permeable coverage of more than 2,000 square feet on a site that is developed with a vacant office/warehouse structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

The board may grant a special exception to the landscape 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 Landscape Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
- The applicant has submitted a “Proposed Site Plan” that does not fully comply with the landscape regulations, specifically a plan where (according to the City of Dallas Chief Arborist) the applicant is requesting relief from all of the required landscaping.
- 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.
- According to the submitted site plan, the 2.8-acre site is developed with a structure that is intended to be renovated with 22,920 square feet of warehouse use and 400 square feet of office use.
- According to DCAD, the site is developed with the following:
 - a “storage warehouse” with 8,905 square feet built in 1959;
 - a “storage warehouse” with 9,000 square feet built in 1976;
 - a “storage warehouse” with 14,400 square feet built in 1965; and
 - an “office building” with 1,800 square feet built in 1965.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Chief Board of Adjustment Planner that stated the following:
 - The applicant is requesting relief from all of the required landscaping.
 - The special exception request is triggered by increasing non-permeable coverage on the site by more than 2,000 square feet.
 - Deficiencies:
 1. The applicant is required to provide one site tree for every 4,000 square feet of lot area (30 site trees required).
The applicant is not proposing any new trees and the arborist is not sure about how many trees that might be preserved that could fulfill part or all of the site tree requirement).
 2. The applicant is required to provide two design standards.
The applicant is providing zero design standards.
 3. The applicant is required to provide a large canopy tree within 120’ of a required parking space.
There is not enough specific information for the arborist to elaborate on whether some of the existing trees are to be preserved, and in turn, fulfill part of this requirement.
 - Factors for consideration:
 - The site does not have any recognized street frontage therefore no street trees are required.
 - One tract has an existing structure that the applicant intends to remodel but the applicant will be increasing the non-permeable coverage by 2,000 square feet.
 - The other tract is entirely vacant and the applicant wants to pave it for parking.
 - There are MANY protected trees along the perimeter of the property(ies), and the arborist does not have any information on whether or not the applicant intends to save any of the trees.

- This would require the applicant to provide a tree protection plan (if they are saving any protected trees) and/or a mitigation plan (if they are going to remove any protected trees) prior to receiving approval to remove any protected trees, or to grade or pave the property.
- FYI: potential for a few hundred inches of tree mitigation.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a letter that provides further details about the request and why it should be granted; and
 - photos of the site, and aerial photos of the site and surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial research)
North: IR (Industrial research)
South: IR (Industrial research)
East: IR (Industrial research)
West: IR (Industrial research)

Land Use:

The 2.27-acre subject site is developed with a vacant office/warehouse structure. The areas to the north, south, and west are developed with office/warehouse uses; and the area to the east 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:

- April 28, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 19, 2005: 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 June 1st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board. A review comment sheet was submitted by the District Manager of Code Compliance marked "Has no objections." In addition to this review comment sheet, the City of Dallas Chief Arborist submitted a memo that has been detailed in the "General Facts" section of this case report.

June 3, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The applicant has submitted a site plan that provides none of the landscaping required with plans to pave more than 2,000 square feet of non-permeable coverage on the site.
- Granting this request, subject to a condition that the applicant comply with the submitted site plan, will allow the site to be paved and the building to be occupied with an office/warehouse without providing any landscaping.
- Granting this request for a special exception to the landscape regulations does not allow the applicant to deviate from fully meeting the tree preservation regulations of the Dallas Development Code.

BOARD OF ADJUSTMENT ACTION: June 13, 2005

APPEARING IN FAVOR: Ryan Bibb, 11520 N Central Expwy, Dallas, TX
 Doug Ralston, 2417 Febens, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION#1: **Wise**

I move that the Board of Adjustment in Appeal No. **BDA 045-229**, on application of Doug Ralston, **grant** the request of this applicant to provide an alternate landscape plan as a special exception to the landscape requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that strict compliance with the requirements will unreasonably burden the use of the property; the special exception will not adversely affect neighboring property; and the requirements are not imposed by a site specific landscape plan approved by the city plan commission or city council. 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: **Neumann**

AYES:

NAYS:

***There was no vote called on this motion and the motion was withdrawn by Ms. Wise.**

MOTION #2: **Wise**

I move that the Board of Adjustment in Appeal No. **BDA 045-229** hold this matter under advisement until **August 15, 2005**.

SECONDED: **Gomez**

***There was no vote called on this motion and the motion was withdrawn by Ms. Wise.**

MOTION#3: **Wise**

I move that the Board of Adjustment in Appeal No. **BDA 045-229**, on application of Doug Ralston, **grant** the request of this applicant to provide an alternate landscape plan as a special exception to the landscape requirements in the Dallas Development Code because our evaluation of the property and the testimony shows that strict compliance with the requirements will unreasonably burden the use of the property; the special exception will not adversely affect neighboring property; and the requirements are not imposed by a site specific landscape plan approved by the city plan commission or city council. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- A special exception be granted for specific provisions of the landscape ordinance, those being the requirements of two design standards as established in Article X of the Dallas Development Code with the following condition:

- The existing landscaping as shown on the submitted tree survey/landscape plan is required.

SECONDED: **Neumann**

AYES: 4 – Madrigal, Neumann, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

MOTION: Neumann

I move to adjourn this meeting.

SECONDED: Gomez

AYES: 4 –Madrigal, Neumann, Wise, Gomez

NAYS: 0 - None

MOTION PASSED: 4 – 0 (Unanimously)

3:45P. M. - Board Meeting adjourned for **June 13, 2005.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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