

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, 6ES AUDITORIUM  
TUESDAY, OCTOBER 20, 2015**

MEMBERS PRESENT AT BRIEFING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Charles Johnson, regular member, and Jim Gaspard alternate member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator  
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Donna Moorman, Chief Planner and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Charles Johnson, regular member, and Jim Gaspard alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator  
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Donna Moorman, Chief Planner and Trena Law, Board Secretary

**11:05 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 20, 2015** docket.

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**1:00 P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel September 22, 2015 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

**MOTION:** None

The minutes were approved without a formal vote.

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**MISCELLANEOUS ITEM NO. 2**

Consideration and approval of Panel A’s 2016 Public Hearing Calendar

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

**MOTION:** Nolen

Approval of Panel A’s 2016 Public Hearing Calendar.

**SECONDED:** Gaspard

**AYES:** 5 – Nolen, French, Rieves, Johnson, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-108

**BUILDING OFFICIAL’S REPORT:** Application of Michael R Coker of the Michael R. Coker Company for variances to the side yard setback regulations at 7130 Lindsley Avenue. This property is more fully described as Lot 1, Block D/2705, and is zoned CD 6 (Tract 1 & 2), which requires a side yard setback of 20 feet. The applicant proposes to construct and maintain structures and provide 0 foot side yard setbacks, which will require 20 foot variances to the side yard setback regulations.

**LOCATION:** 7130 Lindsley Avenue

**APPLICANT:** Michael R Coker of the Michael R. Coker Company

**REQUESTS:**

Requests for variances to the side yard setback regulations of 20’ are made to construct and maintain institutional structures/use, part of which will be located in two 20’ side yard setbacks on a site developed with an institutional structure/use (Lindsley Park Community School).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots in the CD 6 zoning district in that it is a lot with slope and an unusual shape.
- Granting these variances would allow an increased encroachment of 10’ for walkways that would attach to structures granted for a 10’ encroachment to the same side yard setbacks in 2005. The proposed walkway/structure encroachments abut to property owned by the owner of the subject site on the west and a surface parking lot for a multifamily use to the east and south.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CD 6 (Tract 1 and 2) (SUP 1374)(Conservation District)(Specific Use Permit)  
North: CD 6 (Tract 1 and 2)(Conservation District)  
South: CD 6 (Tract 1)(Conservation District)  
East: CD 6 (Tract 2) (Conservation District)  
West: CD 6 (Tract 1)(Conservation District)

**Land Use:**

The subject site is developed with an institutional structure/use (Lindsley Park Community School). The area to the north is developed with a mix of park (Lindsley Park) and surface parking uses; the area to the east is developed with multifamily uses; the area to the south is developed with single family uses; and the area to the west is developed with a park use (Lindsley Park).

**Zoning/BDA History:**

1. BDA 045-143, Property located at 7100 Tenison Memorial Road (the subject site)

On February 15, 2005, the Board of Adjustment Panel A granted requests for special exceptions of 10' to the side and rear yard setback regulations for tree preservation" imposing the following conditions to this request: Compliance with the submitted revised site/landscape plan is required.

The case report stated that the requests were made to construct and maintain a 5-classroom school structure on a site that is currently developed with multifamily structures and related parking lots- that the proposed structure was located on a site that is immediately east of an existing public charter school (The Lindsley Park Community School).

2. BDA 001-195, Property located at 722 Tenison Memorial Drive (the subject site)

On April 24, 2001, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 2' 10" imposing the following conditions to this request: Compliance with the submitted site plan is required; and no addition on the site may be constructed until the sanitary sewer easement on the site has been fully abandoned.

The case report stated that the request was made to construct and maintain a 700 square foot, one-story addition to an existing school (The Lindsley Community School).

3. BDA 989-174, Property located at 722 Tenison Memorial Road (the subject site)

On February 23, 1999, the Board of Adjustment Panel A granted requests for variances to the front yard setback regulations imposing the following condition

to this request: compliance with the submitted site plan and elevation is required. The case report stated that the requests were made to maintain a small portion of a one-story building, and to construct and maintain a covered drop-off area and a 4' high fence for a school to be developed on the site.

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

- This request focuses on constructing and maintaining an institutional structure/use, part of which will be located in two 20' side yard setbacks on a site developed with an institutional structure/use (Lindsley Park Community School).
- Structures on lots zoned CD 6 (Tract II) are required to provide a minimum side yard setback of 20'.
- A site plan has been submitted that indicates the areas of the proposed structure are located on the subject site's side property lines or 20' into these required 20' side yard setbacks.
- According to DCAD records, the "main improvement" for property addressed at 7130 Lindsley Avenue is a "school" built in 1970 with 14,229 square feet, and a "school" built in 2001 with 742 square feet.
- The subject site is somewhat sloped, irregular in shape, and according to the submitted application is 2.24 acres in area. The site has two front yard setbacks and a number of side and rear yard setbacks.
- The submitted site plan notes the square footage on "exist. tract" is 17,213 square feet with "no future development planned for exist. tract.", and that the square footage for "proposed tract" is 19,375 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variances to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD 6 zoning classification.
  - The variances would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD 6 zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structures in the side yard setbacks would be limited to what is shown on this document- which in this case are portions of structures located on two of the site's side property lines (or 20' into these 20' side yard setbacks).

### **Timeline:**

August 21, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

September 15, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 29, 2015: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator (see Attachment A).

September 29, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION: Johnson**

I move to grant that the Board of Adjustment grant application **BDA 145-108** 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 is required.

**SECONDED: French**

**AYES:** 5 – Nolen, French, Rieves, Johnson, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-109

**BUILDING OFFICIAL’S REPORT:** Application of Dallas Cothrum of Masterplan for a special exception to the landscape regulations at 3136 Routh Street. This property is more fully described as Lots 10-14, Block 17/947, and is zoned PD-193 (HC), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 3136 Routh Street

**APPLICANT:** Dallas Cothrum of Masterplan

**REQUEST:**

A request for a special exception to the landscape regulations is made to construct and maintain additions to an existing restaurant structure/use under development, and not fully provide required landscaping.

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

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale:

- The Chief Arborist recommends approval of the submitted revised alternate landscape plan because the plan does not compromise the spirit and intent of the landscape requirements of PD 193.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (HC) (Planned Development District, Heavy Commercial)  
North: PD 193 (HC) (Planned Development District, Heavy Commercial)  
South: PD 193 (HC) (Planned Development District, Heavy Commercial)  
East: PD 193 (HC) (Planned Development District, Heavy Commercial)  
West: PD 193 (GR) (Planned Development District, General Retail)

**Land Use:**

The subject site is developed with a restaurant use/structure that is under development. The area to the north is the Katy Trail, and the areas to the east and south are developed with surface parking and structured parking uses; and the area to the west is developed with a restaurant/bar 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 site.

**GENERAL FACTS/ STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an approximately 1,200 square feet of additions to an existing approximately 4,000 square foot restaurant structure/use that is under development, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted revised alternate landscape plan would not conform to PD 193 landscape regulation standards related to the street trees, sidewalk location, and surface parking area screening.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist states in a memo (see Attachment D) that the request in this case is triggered by addition of floor area to an existing structure on the property.



- The Chief Arborist notes that the submitted revised alternate landscape site plan is deficient in the following ways:
  1. The plan identifies 8 of a required 13 street trees in the tree planting zoned along Woodrow Street and as 1 existing tree on Routh Street.
  2. The 6' wide sidewalk along Routh Street is placed at back of curb while the ordinance requires a 6' wide sidewalk to be placed between 5' -12' from back of curb.
  3. The parking is partially screened with a garbage storage area screening. Additional plantings will provide a landscape buffer between the street and parking lot, but the placement does not suggest a full screening of the area at minimum of 3.5' as required by ordinance.
- The Chief Arborist listed several factors for consideration:
  1. The applicable requirements for HC subdistricts are limited to: 1) the tree planting zone, 2) sidewalks, and 3) screening of off-street parking and garbage storage area screening. The landscape site area, general planting area, and special planting area requirements are not applicable.
  2. Additional established trees will be retained on property along the Routh Street frontage and other new trees will be planted near and in the outside seating area.
  3. Planters of 30" in height will separate the outside seating area and the Routh Street sidewalk and vehicle traffic area. Improvements in the Routh Street parkway will be approved by license.
  4. The garbage storage area is fully screened and the public sidewalk will be placed partially on the property along the Woodrow Street frontage.
- The Chief Arborist recommends approval of the submitted revised alternate landscape plan because the revisions do not appear to compromise the spirit and intent of the landscape requirements of PD 193.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a revised alternate landscape plan has been submitted that is deficient in meeting the street tree, sidewalk location, and surface parking area screening requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P 193-126: "Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted revised alternate landscape plan as a condition, the site would be granted exception from full compliance to the street tree, sidewalk location, and surface parking area screening requirements of the PD 193 landscape regulations.

**Timeline:**

August 24, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 15, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 30, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

October 5, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

October 9, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment C).

October 9 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment D).

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

**APPEARING IN FAVOR:** Dallas Cothrum, 900 Jackson St., Dallas, TX

**APPEARING IN OPPOSITION:** Harriet Rubin, 2714 Turtle Creek Cr., Dallas, TX

**MOTION #1: Rieves**

I move that the Board of Adjustment suspends its rules and accept the evidence that is being presented today.

**SECONDED: French**

**AYES:** 5 – Nolen, French, Rieves, Johnson, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

**MOTION #2: Nolen**

I move that the Board of Adjustment, in request No. **BDA 145-109**, on application Dallas Cothrum, **grant** the request to provide an alternate landscape plan as a special exception to the landscape regulations in PD193(HC) code because our evaluation of the property and the testimony shows that the special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following conditions be imposed to further the purpose and intent of the Oak Lawn Ordinance:

- Compliance with the submitted revised alternate landscape plan is required.

**SECONDED: French**

**AYES:** 5 – Nolen, French, Rieves, Johnson, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 145-101(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Peter Kavanagh for a special exception to the fence height regulations at 4520 Cherokee Trail. This property is more fully described as Lot 6, Block O/4984, and is zoned PD-455, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 4520 Cherokee Trail

**APPLICANT:** Peter Kavanagh

**REQUEST:**

A request for a special exception to the fence height regulations of 4' was originally made to: 1) replace an existing 8' high, approximately 90' long wood fence with a new 8' high wood fence; and 2) to continue the new 8' high wood fence approximately 60' further in length northward in the site's 30' front yard setback along Pomona Road on a site that is currently vacant.

Note that on October 9, 2015, the applicant submitted a revised site plan and elevation that had not been submitted to/accepted by Building Inspection (see Attachment B). (The Board Administrator encouraged the applicant to submit these/any revised plans to Building Inspection prior to the October 20<sup>th</sup> hearing, and to present the differences

between any revised plan that he may submit for the Board's consideration from what was shown on what he had originally submitted with this application in July of 2015, and what is described in this case report).

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 455 (Planned Development)  
North: PD 455 (Planned Development)  
South: PD 455 (Planned Development)  
East: PD 455 (Planned Development)  
West: PD 455 (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, and west are developed with single family uses, and the area to the east is developed with a park and a school (Bluff View Park and the Sudie L. Williams Elementary School).

**Zoning/BDA History:**

1. BDA 145-076, Property at 4519 Cherokee Trail (the lot north of the subject site) On August 25, 2015, the Board of Adjustment Panel A denied a request for a special exception to the fence height regulations of 1' without prejudice. The case report stated the request was made to maintain an open picket/post fence that ranges in height given grade variations on the property from 4' 2 1/2" – 4' 6 1/2" on a site developed with a single family home.

2. BDA 990-201, Property at 4501 Cherokee Trail (three lots northwest of the subject site) On February 15, 2000, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 4.5' without prejudice. The case report stated the request was made to construct and maintain a 6' high open wrought iron picket fence with 6.5' high stone/brick columns, an 8' high open wrought iron gate with 8.5' high columns.

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

- The originally submitted request focused on replacing an existing 8' high, approximately 90' long wood fence with a new 8' high wood fence; and continuing the new 8' high wood fence approximately 60' further in length northward in the site's 30' front yard setback along Pomona Road on a site that is currently vacant.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located at the southwest corner of Cherokee Trail and Pomona Road in PD 455.
- Given the single family zoning and location of the corner lot subject site, it has two 30' front yard setbacks – a 30' front yard setback along Pomona Road (the shorter of the two frontages of the subject site) and a 30' front yard setback along Cherokee Trail (the longer of the two frontages that while usually would be considered a side yard is a front yard notwithstanding in order to maintain continuity of the established front yard setback along this street frontage where homes to the west that “front” northward to Cherokee Trail).
- The applicant had originally submitted a site plan and elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 8'.
- The originally submitted site plan and elevation only represented a fence to exceed 4' in height in the site's Pomona Road front yard setback.
- The following additional information was gleaned from the originally submitted site plan:
  - The proposal was represented as being approximately 150' in length parallel to the Pomona Road and approximately 6' perpendicular to this street on the north side of the site in the Pomona Road 30' front yard setback.
  - The fence was represented to be located at a range of on the Pomona Road front property line to 30' from this front property line or at a range of about 25' to 55' from the Pomona Road pavement line.
- The originally requested 8' high Pomona Road wood fence proposal was located on the site where no single family home has direct frontage – a park (Bluff View Park) fronts the fence on the subject site and has an approximately 4' high chain link fence in its front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Pomona Road (approximately 400 feet north and south of the site) and noted one other visible fence above 4 feet high which appeared to be located in a front

yard setback – an approximately 6’ high chain link fence south of the site at the Sudie L. Williams Elementary School.

- At the September 22<sup>nd</sup> briefing, the Board Administrator stated that 11 letters had been submitted in support (or with no issue), and 16 letters had been submitted in opposition.
- As of October 9, 2015, 19 letters had been submitted in support/no issue, and 17 letters had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4’ will not adversely affect neighboring property.
- Granting this special exception of 4’ with a condition imposed that the applicant complies with a submitted site plan and elevation would require the proposal exceeding 4’ in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on any such document.
- Note that on October 9, 2015, the applicant submitted a revised site plan and elevation that had not been submitted to/accepted by Building Inspection (see Attachment B). The Board Administrator encouraged the applicant to submit these/any revised plans to Building Inspection prior to the October 20<sup>th</sup> hearing, and to present the differences between any revised plan that he may submit for the Board’s consideration from what was shown on what he had originally submitted with this application in July of 2015, and what is described in this case report.

### **Timeline:**

- July 24, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 19, 2015: The Board Administrator contacted the applicant and emailed the following information:
- a copy of the application materials including the Building Official’s report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board

Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

September 22, 2015: The Board of Adjustment Panel A conducted a public hearing on this application. The applicant submitted a revised site plan to the Board at the public hearing (see Attachment A). The Board delayed action on this application until their next public hearing to be held on October 20, 2015.

September 24, 2015: The Board Administrator sent an email to the applicant that noted the decision of the panel, the September 30<sup>th</sup> deadline to submit any additional information to staff for their review, and the 1 p.m., October 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

October 9, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: SEPTEMBER 22, 2015**

**APPEARING IN FAVOR:** Peter Kavanagh, 1620 Handley Ste A, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** Nolen

I move that the Board of Adjustment, in request No. **BDA 145-101**, hold this matter under advisement until **October 20, 2015**.

**SECONDED: French**

**AYES:** 5 – Nolen, French, Rieves, Leone, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

**APPEARING IN FAVOR:** Peter Kavanagh, 1620 Handley, Dallas, TX  
Greg Beasley, 6107 Lupton, Dallas, TX  
Lee Lee Groin, Shorse Shoe Trail, Dallas, TX  
Teann Nash, 4801 Alan Dale Lane, Dallas, TX  
Reena Blumerfield, 4703 Cherokee Trail, Dallas, TX

**APPEARING IN OPPOSITION:** Joe Werner, 4400 Bluffview, Dallas, TX  
Ann Huntington, 5020 Lialac Lane, Dallas, TX  
Pat White, 4714 Wildwood Rd., Dallas, TX  
Nancy Kenty, 8723 Canyon Drive, Dallas, TX  
John Alexander, 4811 Bluffview, Dallas, TX

**MOTION #1: Nolen**

I move that the Board of Adjustment suspends its rules and accept the evidence that is being presented today.

**SECONDED: Rieves**

**AYES:** 5 – Nolen, French, Rieves, Johnson, Gaspard

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)

**MOTION #2: French**

I move that the Board of Adjustment, in request No. **BDA 145-101**, on application of Peter Kavanagh, **grant** the request to construct and maintain an 8-foot high fence in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code 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 revised site plan dated 10-19-2015 and elevation is required.

**SECONDED: Nolen**

**AYES:** 3 – Nolen, French, Johnson

**NAYS:** 2 - Rieves, Gaspard

**MOTION FAILED:** 3 – 2

**MOTION #3: Rieves**



I move that the Board of Adjustment, in request No. **BDA 145-101**, on application of Peter Kavanagh, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

**SECONDED: Gaspard**

**AYES:** 3 – Rieves, Johnson, Gaspard

**NAYS:** 2 - Nolen, French

**MOTION PASSED:** 3 – 2

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**FILE NUMBER:** BDA 145-102

**BUILDING OFFICIAL’S REPORT:** Application of Zeke Bullock for a special exception to the sign regulations at 7895 Riverfall Drive. This property is more fully described as Lot 2B, Block 15/7289, and is zoned PD 904 (Subarea A & B), which does not allow non-monument signs within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The applicant proposes to construct and maintain a detached premise sign on a nonresidential premise within 250 feet of private property in a non-business zoning district, which will require a special exception to the minimum distance requirement of the sign regulations.

**LOCATION:** 7895 Riverfall Drive

**APPLICANT:** Zeke Bullock

**October 20, 2015 Public Hearing Notes:**

- The applicant submitted additional written documentation to the Board at the public hearing.

**REQUEST:**

A request for a special exception to the sign regulations is made to locate and maintain a non-monument sign within the 250’ distance requirement from properties to the north and south of the subject site in non-business zoning districts (MF-3(A) and (GO(A)) on a site being developed with a mini-warehouse use (Public Storage).

**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR A NON-MONUMENT SIGN WITHIN 250 FEET OF PRIVATE PROPERTY IN A NON-BUSINESS ZONING DISTRICT:**

The Board of Adjustment may grant a special exception to allow a non-monument sign within 250 feet of private property in a non-business zoning district when, in the opinion of the board, the special exception will not adversely affect neighboring property.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff had concluded that the applicant had not substantiated how this special exception to allow a non-monument sign within 250 feet of private property in a non-business zoning district will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 904 (Planned Development)  
North: MF-3(A) (Multifamily)  
South: GO(A) and RR (General Office and Regional Retail)  
East: GO(A) General Office)  
West: MF-4(A) (Multifamily)

**Land Use:**

The site is currently being developed with a mini-warehouse use (Public Storage). The areas to the north and west are developed with multifamily use; the area to the east is North Central Expressway; and the area to the south is developed with office 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 site.

**GENERAL FACTS/STAFF ANALYSIS:**

- The request focuses on locating and maintaining a non-monument sign within the 250' distance requirement from properties to the north and south of the subject site in non-business zoning districts (MF-3(A) and (GO(A)) on a site being developed with a mini-warehouse use (Public Storage).
- The Dallas Development Code states non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park of more than one acre.
- The applicant has submitted a site plan and sign elevation. The elevation represents a pole sign that is 40' in height. The site plan represents that the Central Expressway frontage of the site is approximately 202 linear feet, and that the proposed 40' high pole sign is within 250' of private property in a non-business zoning district. The proposed sign is proposed to be located approximately 50' south of property to the north zoned MF-3(A) and multifamily in use, and approximately 150' north of property to the south zoned GO(A) and office in use.
- The applicant has the burden of proof in establishing the following:
  - That allowing a non-monument sign within 250 feet of private property in a non-business zoning district when, in

the opinion of the board, the special exception will not adversely affect neighboring property.

- If the Board were to grant this request and impose the submitted site plan as a condition to the request, the sign would be held to the location as shown on this plan, and to the notation on this plan.
- Staff does not feel it is necessary to additionally impose any sign elevation as a condition to this request since granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code (i.e. height, effective area, or setback requirements) other than allowing a non-monument sign within 250 feet of private property in a non-business zoning district.
- Note that while the frontage of the subject site at 202 linear feet combined with the proximity of non-business zoning districts to the north and south does not allow the applicant to erect and maintain a non-monument sign on the site without the granting of this special exception, the applicant could erect and maintain a *monument* sign on the site without any special exception.

### **Timeline:**

July 17, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 15, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

3:06 p.m.: Break  
3:10 P.M.: Resumed

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

APPEARING IN FAVOR: Zeke Bullock, 4250 Acton Dr., Dallas, TX

APPEARING IN OPPOSITION: No one

**MOTION #1: Rieves**

I move that the Board of Adjustment, in request No. **BDA 145-102(SL)**, on application of Zeke Bullock, deny this special exception to allow a non-monument sign within 250 feet of private property in a non-business zoning district because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

**SECONDED: Gaspard**

**AYES:** 2 –Rieves, Gaspard

**NAYS:** 3 - Nolen, French, Johnson

**MOTION FAILED:** 2 – 3

**MOTION #2: Nolen**

I move that the Board of Adjustment, in request No. **BDA 145-102(SL)**, on application of Zeke Bullock, **grant** the request the request of this applicant to allow a non-monument sign within 250 feet of private property in a non-business zoning district 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 and elevation is required.

**SECONDED: Gaspard**

**AYES:** 4 – Nolen, French, Johnson, Gaspard

**NAYS:** 1 - Rieves

**MOTION PASSED:** 4 – 1

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**FILE NUMBER:** BDA 145-105

**BUILDING OFFICIAL’S REPORT:** Application of Jennifer Workman for a variance to the off-street parking regulations at 5024 Tracy Street. This property is more fully

described as Lot 1A, Block 4/2017, and is zoned PD 193 (LC), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for an office use and provide 33 of the required 39 parking spaces, which will require a 6 space variance to the off-street parking regulations.

**LOCATION:** 5024 Tracy Street

**APPLICANT:** Jennifer Workman

**October 20, 2015 Public Hearing Notes:**

- The applicant submitted additional written documentation to the Board at the public hearing.

**REQUEST:**

A request for a variance to the off-street parking regulations of 6 spaces is made to construct and maintain a new 3-story office/warehouse structure/use (Fikes Family Office Headquarters), where the applicant proposes to provide 33 (or 85 percent) of the required 39 required off-street parking spaces on a site developed with an office structure/use that the applicant intends to demolish.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While it appears the granting this variance would not be contrary to public interest since the Sustainable Development and Construction Department Project Engineer has no objections, staff concluded that the features of the flat, rectangular in shape,

approximately 22,000 square foot subject site do not appear to restrict the applicant from developing it with a structure of a size and with a use permitted in this zoning where the required number of off-street parking spaces could be provided without a variance to the off-street parking regulations.

### **BACKGROUND INFORMATION:**

Site: PD 193 (LC) (Planned Development, Light commercial)  
North: PD 193 (LC) (Planned Development, Light commercial)  
South: PD 193 (LC) (Planned Development, Light commercial)  
East: PD 193 (LC) (Planned Development, Light commercial)  
West: PD 193 (LC) (Planned Development, Light commercial)

### **Land Use:**

The subject site is developed with an office/warehouse structure/use that the applicant intends to demolish. The areas to the north, east, and south appear to be developed with office uses; and the area to the west is the Kay Trail.

### **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.

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

- The request focuses on construct and maintain a new, approximately 14,000 square foot, 3-story office structure/use (Fikes Family Office Headquarters), where the applicant proposes to provide 33 (or 85 percent) of the required 39 required off-street parking spaces on a site developed with an office/warehouse structure/use that the applicant intends to demolish.
- The subject site is zoned PD 193 (LC) that requires the following off-street parking requirement:
  - Office: 1 space for each 366 square feet of floor area.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The site is flat, rectangular in shape, and according to the application, 0.512 acres (or approximately 22,000 square feet) in area. The site is zoned PD 193 (LC).
- DCAD records indicate that the “improvements” at 5024 Tracy Street is a “storage warehouse” with 11,094 square feet built in 1997.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the

development upon other parcels of land in districts with the same PD193 (LC) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (LC) zoning classification.
- If the Board were to grant this request and impose the submitted site plan as a condition, the applicant would be required to provide 33 (or 85 percent) of the 39 off-street parking spaces in conjunction with constructing/maintaining a new, approximately 14,000 square foot, 3-story office structure/use.

### **Timeline:**

August 18, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 15, 2015: The Board Administrator contacted the applicant and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 22, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

October 9, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

**BOARD OF ADJUSTMENT ACTION: OCTOBER 20, 2015**

APPEARING IN FAVOR: Larry Good, 2808 Fairmount St., #300, Dallas, TX

APPEARING IN OPPOSITION: No one

**MOTION #1: Nolen**

I move that the Board of Adjustment suspends its rules and accept the evidence that is being presented today.

**SECONDED: French**

AYES: 5 – Nolen, French, Rieves, Johnson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**MOTION #2: Gaspard**

I move that the Board of Adjustment, in request No. **BDA 145-105**, on application of Jennifer Workman **grant** the variance of 6 spaces to the off-street parking 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.

**SECONDED: Rieves**

AYES: 5 – Nolen, French, Rieves, Johnson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**MOTION: Nolen**

I move to adjourn this meeting.

**SECONDED: Gaspard**

AYES: 5 – Nolen, French, Rieves, Johnson, Gaspard

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**3:42 P. M.:** - Board Meeting adjourned for **October 20, 2015**



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CHAIRPERSON

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BOARD ADMINISTRATOR

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BOARD SECRETARY

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