

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, NOVEMBER 16, 2010**

MEMBERS PRESENT AT BRIEFING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Steve Harris and Scott Housel, regular member and

MEMBERS ABSENT FROM BRIEFING: Johnnie Goins, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Steve Harris and Scott Housel, regular member

MEMBERS ABSENT FROM HEARING: Johnnie Goins, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist and Trena Law, Board Secretary

**11:04 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 16, 2010** 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 A **October 19, 2010** public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

**MOTION: Hounsel**

I move **approval** of the Tuesday, **October 19, 2010** public hearing minutes as amended.

**SECONDED: Harris**

**AYES: 4** – Richmond, Schweitzer, Harris, Hounsel

**NAYS: 0** -

**MOTION PASSED: 4- 0** (unanimously)

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**MISCELLANEOUS ITEM NO. 2**

Adoption of Panel A's 2011 Public Hearing Schedule

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

**MOTION: Harris**

I move **approval** of Panel A's 2011 Public Hearing Schedule.

**SECONDED: Schweitzer**

**AYES: 4** – Richmond, Schweitzer, Harris, Hounsel

**NAYS: 0** -

**MOTION PASSED: 4- 0** (unanimously)

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### MISCELLANEOUS ITEM NO. 3

**REQUEST:** To waive the filing fee to be submitted in conjunction with a potential Board of Adjustment appeal

**LOCATION:** 6933 Lyre Lane

**APPLICANT:** Barbara Young

#### **STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states that the board may waive the filing fee for a board of adjustment application if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

#### **GENERAL FACTS:**

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waivers/reimbursements:
  - The board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.
  - The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
  - If the issue is placed on the miscellaneous docket, the applicant may not file the application until the merits of the request for a waiver have been determined by the board.
  - In making this determination, the board may require the production of financial documents.

#### **Timeline:**

October 19, 2010: The Board of Adjustment Panel A denied a request made by the applicant for special exception to the fence height regulations on the property without prejudice.

October 26, 2010 The applicant emailed staff requesting "a new hearing having the \$600 fee waived." (See Attachment A).

October 26, 2010: This request was assigned to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "Only one panel may hear, handle, or render a decision in a particular case, 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. If a case is dismissed or withdrawn and subsequently re-filed, it must be returned to the panel to which it was originally assigned. If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

October 26, 2010: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials (information that may include financial documents as in but not limited to copies of 1040’s, W-4’s, bank statements);
- 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.”

Note that the applicant was informed in this email that no written notice would be sent to her of this hearing on her fee waiver miscellaneous request, and that her attendance (or someone who could speak on her behalf) at the November 16<sup>th</sup> hearing to be held at 1:00 p.m. in the City Council Chambers of Dallas City Hall was strongly encouraged.

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment **deny** the request for a fee waiver to be submitted in conjunction with a potential board of adjustment appeal.

SECONDED: **Harris**

AYES: 4 – Richmond, Schweitzer, Harris, Hounsel

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

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FILE NUMBER: BDA 090-106

**BUILDING OFFICIAL’S REPORT:**

Application of Shaun DuFresne for a special exception to the fence height regulations at 6509 Briarmeade Drive. This property is more fully described as Lot 1 in City Block

8/8181 and is zoned R-16(A) which limits the height of a fence in the rear yard to 9 feet. The applicant proposes to construct/maintain a 10-foot 6-inch high fence which will require a special exception of 1 foot 6 inches.

**LOCATION:** 6509 Briarmeade Drive

**APPLICANT:** Shaun DuFresne

**REQUEST:**

- A special exception to the fence height regulations of 1’ 6” is requested in conjunction with maintaining (according to the submitted elevations) a solid board-on-board fence/wall ranging in height from 10’ 3’ – 10’ 6” in height located in the site’s 10’ required rear yard setback on the north side of the subject site – a site developed with a single family home.

**STAFF RECOMMENDATION:**

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

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

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

**GENERAL FACTS:**

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9’ above grade, and additionally 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 Dallas Development Code states that “fence heights shall be measured from in single family districts, the top of the fence to the level of the ground on the inside of the fence in the required side or rear yard.”  
The applicant has submitted a site plan and two elevations indicating that the fence/wall located in the required 10’ rear yard setback on the north side of the site reaches a maximum height of 10’ 6”.
- The submitted site plan indicates that the solid board-on-board fence/wall in the rear yard setback is approximately 112’ long parallel to the alley easement line, and is approximately 10’ long perpendicular to the alley easement line on the west side of the site.
- No single family home “fronts” this fence/wall in the site’s required rear yard setback. The homes located north of the subject site are separated from it by an eight-lane

divided thoroughfare (Belt Line Road) with these homes backing onto Belt Line Road (fronting north to Heatherknoll). These properties to the north appear to have approximately 6' - 8' high solid privacy walls. One single family home abuts the proposal to the east.

- The Board Administrator noted that a fence/wall on the property immediately east of the subject site that appears to exceed 9' in height – a fence/wall at a slightly lower height than that is the issue of this request at 10' 6". The fence to the east of the subject site appears to be a result of a Board of Adjustment application from 1987: BDA87-143. (See the "Zoning/BDA History" section of this case report for further details about this request).
- On November 1, 2010, the applicant submitted additional information beyond what was submitted with the original application (see Attachment A). This information included: 1) an amended elevation to the originally submitted one (an elevation that reflected a revision of the height of the fence on the north side of the site from 10' 3' to 10' 6"), and 2) a petition signed by 6 neighbors/owners in support of the application.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: R-16 (A) (Single family district 16,000 square feet)  
North: R-10 (A) (Single family district 10,000 square feet)  
South: R-16 (A) (Single family district 16,000 square feet)  
East: R-16 (A) (Single family district 16,000 square feet)  
West: R-16 (A) (Single family district 16,000 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. BDA 87-143, Property located at 6517 Briarmeade Drive (the lot immediately east of the subject site)

On May 12, 1987, the Board of Adjustment granted a request for a "variance" to the fence height regulations of 4.6' and a request for a variance to the side yard setback regulations of 1.2'. The board imposed the no conditions in conjunction with these requests, however, the case report mentioned that the requests were made to maintain a 10.2' high fence (one that was located atop a two foot retaining wall), and to maintain an expanded garage "through a contractor, expanded the garage without the benefit of a building permit and

an inspector ordered the job discontinued until the proper clearances were obtained.”

**Timeline:**

Sept. 15, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 21, 2010: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

October 21, 2010: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 1<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 5<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.

November 1, 2010: The applicant submitted additional information to the Board Administrator beyond what was submitted in the original application (see Attachment A).

November 2, 2010: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2010: The Sustainable Development Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following comments: “Comply with all C.O.D. requirements.”

**STAFF ANALYSIS:**

- This request focuses on maintaining a solid board-on-board fence/wall ranging in height ranging from 10’ 3’ – 10’ 6” in height located in the site’s 10’ required rear

yard setback on the north side of the subject site – a site developed with a single family home.

- A site plan has been submitted representing that the fence/wall in the rear yard setback is approximately 112' long parallel to the alley easement line, and is approximately 10' long perpendicular to the alley easement line on the west side of the site.
- Elevations have been submitted representing that the fence/wall in the rear yard setback ranges in height from 10' 3" – 10' 6" and is of solid board-on-board material.
- No single family home "fronts" this fence/wall in the site's required rear yard setback. The homes located north of the subject site are separated from it by an eight-lane divided thoroughfare (Belt Line Road) with these homes backing onto Belt Line Road (fronting north to Heatherknoll). These properties to the north appear to have approximately 6' - 8' high solid privacy walls. One single family home abuts the proposal to the east.
- An existing fence/wall was noted in the Board Administrator's field visit of the site and surrounding area – a fence/wall immediately east of the subject site at a slightly lower height than that is the issue of this request at 10' 6". The fence/wall to the east of the subject site appears to be a result of a Board of Adjustment application from 1987: BDA87-143. (See the "Zoning/BDA History" section of this case report for further details about this request).
- As of November 8, 2010, a petition had been submitted signed by 6 neighbors/owners in support of the application, and no letters had been submitted in opposition to the application.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 1' 6" requested to maintain the fence/wall in the required rear yard setback does not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and submitted elevations would assure that the existing fence/wall exceeding 9' in height (as measured from the top of the fence to the level of the ground on the inside of the fence in the required side) is maintained in the location and of the heights and material as shown on these documents.

### **BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Harris

I move that the Board of Adjustment grant application **BDA 090-106** 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 partial elevations is required.

**SECONDED: Hounsel**

**AYES:** 4 – Richmond, Schweitzer, Harris, Hounsel

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA 090-108

**BUILDING OFFICIAL’S REPORT:**

Application of Robert Baldwin for a special exception to the fence height regulations and for a variance to the front yard setback regulations at 6939 Oak Manor Drive. This property is more fully described as Lot 4 in City Block H/7462 and is zoned PD-381 which limits the height of a fence in the front yard to 4 feet and requires a front yard setback of 15 feet. The applicant proposes to construct/maintain an 8 foot high fence which will require a special exception to the fence height regulations of 4 feet, and to construct and maintain structures and provide a 0 foot front yard setback which will require a variance of 15 feet.

**LOCATION:** 6939 Oak Manor Drive.

**APPLICANT:** Robert Baldwin

**November 16, 2010 Public Hearing Notes:**

- The Board Administrator circulated a November 16<sup>th</sup> email from the applicant to the board members at their briefing – an email stating that the applicant would be requesting that the board delay action on the application at their hearing until January 2011 to allow time for him to obtain approval of his fence and landscape plans related to his board of adjustment application from the Lake Forest HOA.

**REQUESTS:**

- The following appeals have been made in this application on a site that is currently developed with a single family home:
  1. A special exception to the fence height regulations of 4’ is requested in conjunction with maintaining an 8’ high open iron picket fence with stone columns, and modifying this fence by transitioning approximately 20’ of its total 85’ length from iron pickets to solid stone masonry “to match existing columns” – a fence currently located in one of the site’s two 15’ front yard setbacks (Preston Glen Drive).

2. A variance to the front yard setback regulations of 15' is requested in conjunction with constructing and maintaining a "pool" structure and a "new fireplace feature" structure, part of which and/or all of which would be located in one of the site's two 15' front yard setbacks (Preston Glen Drive).

Note that no portion of the special exception or variance request is made in this application to construct/maintain a fence and/or structure in the site's Oak Manor Drive front yard setback.

**STAFF RECOMMENDATION (fence height special exception):**

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

**STAFF RECOMMENDATION (variance):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned PD No. 381 in that it is a corner lot with a restrictive area due to two front yard setbacks.

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

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

**STANDARD FOR A 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:

- (A) the variance is 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) the variance is 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) the variance is 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.

### **GENERAL FACTS (fence height special exception):**

- The subject site is located at the southwest corner of Preston Glen Drive and Oak Manor Drive. Even though the Oak Manor Drive frontage of the subject site functions as its front yard and the Preston Glen Drive frontage functions as its side yard, the subject site has two 15' front yard setbacks along both streets. The site has a 15' front yard setback along Oak Manor Drive (the shorter of the two frontages which is always deemed the front yard setback on a corner lot in a single family zoning district), and a 15' front yard setback along Preston Glen Drive the longer of the two frontages of this corner lot which would typically be regarded as a side yard where a 9' high fence could be maintained by right. The site's Preston Glen Drive frontage is deemed a front yard setback nonetheless in order to maintain the continuity of the established front yard setback established by the lots west of the site that front/are oriented northward onto Preston Glen Drive.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.  
The applicant has submitted a site plan/partial fence elevation document indicating that the existing fence/proposal in the 15' Preston Glen Drive front yard setback either reaches or is proposed to reach a maximum height of 8'. (No fence is proposed to be constructed and/or maintained in the subject site's 15' Oak Manor Drive front yard setback).
- The site plan indicates the location of the fence in the site's Preston Glen Drive front yard setback. The following additional information was gleaned from this site plan:
  - The proposal/existing fence is approximately 85' in length parallel to Preston Glen Drive and approximately 15' in length perpendicular to Preston Glen Drive on the east and west sides of the site in this front yard setback.
  - The proposal/existing fence is shown to be located on the Preston Glen Drive front property line or about 12' from the Preston Glen Drive pavement line.
- The proposal/existing fence is located on the site where four single family homes have direct/indirect frontage to the proposal/existing fence, none which have fences in their front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area and no other fences/walls above (or below) 4' in height along Preston Glen Drive or Oak Manor Drive.
- On October 29 and November 1, 2010, the applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

### **GENERAL FACTS (variance):**

- Single family structures on lots zoned PD No. 381 (Subdistrict A) are required to provide a minimum front yard setback of 15', and a minimum 1' side yard setback on one side yard and a minimum 9' on the other side yard.

- The subject site is located at the southwest corner of Preston Glen Drive and Oak Manor Drive. Even though the Oak Manor Drive frontage of the subject site functions as its front yard and the Preston Glen Drive frontage functions as its side yard, the subject site has two 15' front yard setbacks along both streets. The site has a 15' front yard setback along Oak Manor Drive (the shorter of the two frontages which is always deemed the front yard setback on a corner lot in a single family zoning district), and a 15' front yard setback along Preston Glen Drive (the longer of the two frontages of this corner lot which would typically be regarded as a side yard). The site's Preston Glen Drive frontage is deemed a front yard setback nonetheless in order to maintain the continuity of the established front yard setback established by the lots west of the site that front/are oriented northward onto Preston Glen Drive. A scaled site plan/elevation document has been submitted denoting "new pool" and "new fireplace feature" structures that are located on the site's Preston Glen Drive front property line (or 15' into the 15' front yard setback). (No encroachment is proposed in the site's Oak Manor Drive 15' front yard setback). (Note that although the submitted site plan indicates what appears to be a portion of the existing single family home structure located in the site's 15' front yard setback along Preston Glen Drive, the application has only been made to construct and maintain pool and a fireplace structures in this required front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed "new pool" structure to be located in the site's Preston Glen Drive 15' front yard setback is approximately 290 square feet in area or approximately 1/2 of the approximately 550 square foot "building"/pool footprint; and the entire approximately 240 square foot "new fireplace feature" structure is located in this setback.
- According to DCAD records, the site is developed with the following:
  - a structure built in 2001 that is in "good" condition with 4,839 square feet of living area; and
  - a 666 square foot attached garage.
- The subject site is zoned PD No. 381 (Subdistrict A), is flat, is generally rectangular in shape (approximately 150' x 60'), and approximately 9,000 square feet in area. (Note that PD No. 381 states the "for applicable regulations not addressed in this article, the applicable 51A District Regulation for Subdistrict A is R-7.5(A)." Lots zoned R-7.5(A) lots are typically 7,500 square feet in area. This four-sided lot site has two 15' front yard setbacks; one 9' side yard setback; one 1' side yard setback. Most residentially-zoned lots have one front yard setback.
- On October 29 and November 1, 2010, the applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD No. 381 (Planned Development District)  
North: PD No. 381 (Planned Development District)

South: PD No. 381 (Planned Development District)  
East: PD No. 381 (Planned Development District)  
West: PD No. 381 (Planned Development District)

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

- April 27, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 21, 2010: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- October 21, 2010: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the November 1<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 5<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.
- November 2, 2010: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.
- October 29 & Nov. 1, 2010: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).
- November 3, 2010 The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has

no objections if certain conditions are met” with the following comments: “Comply with all C.O.D visibility requirements.”

**STAFF ANALYSIS (fence height special exception):**

- The request focuses on maintaining an 8’ high open iron picket fence with stone columns, and modifying this fence by transitioning approximately 20’ of its total 85’ length from iron pickets to solid stone masonry “to match existing columns” – a fence currently located in one of the site’s two 15’ front yard setbacks (Preston Glen Drive) on a site developed with a single family home.
- The existing fence/proposed wall that is the issue of this request is to be located on a site that has two front yard setbacks – one front yard setback on Oak Manor Drive (where no fence is existing over 4’ in height or proposed); the other front yard setback on Preston Glen Drive (where the existing fence/proposed wall is that is the issue of this request is or is to be located– a fence/wall that reaches or will reach 8’ at its highest point).
- Even though the site’s Preston Glen Drive frontage functions as its side/rear yard, and is the longer of the two street frontages of the corner lot which is typically a side yard where a 9’ high fence can be built by right, the site’s Preston Glen Drive frontage is deemed a front yard nonetheless in order to maintain the continuity of the established front yard setbacks established by the lots west of the site that front/are oriented northward onto Preston Glen Drive.
- A scaled site plan/partial elevation document has been submitted documenting the location of the existing fence/proposed wall relative to the Preston Glen Drive property line/pavement line, the length of the proposal relative to the entire lot, and the existing/proposed building materials. The existing fence/proposed wall is shown to be located approximately on the Preston Glen Drive front property line or about 12’ from the pavement line; shown to be about 85’ long parallel to Preston Glen Drive and about 15’ in length perpendicular to Preston Glen Drive on both sides of the site in this front yard setback.
- The proposal is located on the site where four single family homes “front” the existing fence/proposed wall, none which have fences in their front yard setbacks.
- No other fences were noted in a field visit of the site and surrounding area.
- As of November 8, 2010, no letters had been submitted in support or opposition to the application.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the existing fence/proposed wall that would reach 8’ in height) will not adversely affect neighboring property.
- Granting this special exception of 4’ with a condition imposed that the applicant complies with the submitted site plan/partial elevation document would assure that the proposal would be maintained and modified in the location and of the height and materials as shown on this document.

**STAFF ANALYSIS (variance):**

- This request focuses on constructing and maintaining two structures which would be located in one of the site’s two 15’ front yard setbacks (Preston Glen Drive) - a “pool”

structure part of which would be located in this setback, and a “new fireplace feature” structure, all of which would be located in this setback on a site developed with a single family home.

The structures that are the issues of this request are to be located on a site that has two front yard setbacks – a site with one front yard setback on Oak Manor Drive (where no structure is proposed to be located in); the other front yard setback on Preston Glen Drive (where the proposed structures that are the issues of this request are to be located – a “pool” structure and a “new fireplace feature” structure that are to be located as close as on the Preston Glen Drive front property line or as much as 15’ into this 15’ front yard setback)

- Even though the site’s Preston Glen Drive frontage functions as its side/rear yard, and is the longer of the two street frontages of the corner lot which is typically a side yard where on this side of the site a 9’ side yard setback is required, the site’s Preston Glen Drive frontage is deemed a front yard nonetheless in order to maintain the continuity of the established front yard setbacks established by the lots west of the site that front/are oriented northward onto Preston Glen Drive.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed “new pool” structure to be located in the site’s Preston Glen Drive 15’ front yard setback is approximately 290 square feet in area or approximately 1/2 of the approximately 550 square foot “building”/pool footprint; and the entire approximately 240 square foot “new fireplace feature” structure is located in this setback.
- According to DCAD records, the site is developed with the following:
  - a structure built in 2001 that is in “good” condition with 4,839 square feet of living area; and
  - a 666 square foot attached garage.
- The subject site is zoned PD No. 381 (Subdistrict A), is flat, is generally rectangular in shape (approximately 150’ x 60’), and approximately 9,000 square feet in area. (Note that PD No. 381 states the “for applicable regulations not addressed in this article, the applicable 51A District Regulation for Subdistrict A is R-7.5(A).” Lots zoned R-7.5(A) lots are typically 7,500 square feet in area. This four-sided lot site has two 15’ front yard setbacks; one 9’ side yard setback; one 1’ side yard setback. Most residentially-zoned lots have one front yard setback.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Preston Glen Drive front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 381 zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 381 zoning classification.

- If the Board were to grant the variance request, subject to the submitted site plan, the structures in the front yard setback would be limited to what is shown on this document and the structures in the setback specifically applied for– which in this case is a “pool” structure and a “new fireplace feature” structure to be located as close as on the Preston Glen Drive front property line (or as much as 15’ into this 15’ front yard setback). The portion of the existing single family home structure that appears to be shown on the submitted site plan in the site’s 15’ front yard setback along Preston Glen Drive would not be varied since the applicant has made his request to only vary the proposed pool and the proposed fireplace feature structures.

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Schweitzer

I move that the Board of Adjustment in Appeal No. **BDA 090-108**, hold this matter under advisement until **January 18, 2011**.

**SECONDED:** Harris

**AYES:** 4 – Richmond, Schweitzer, Harris, Housel

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA 090-104

**BUILDING OFFICIAL’S REPORT:**

Application of Isidro Soto for a special exception to the side yard setback regulations at 3132 San Paula Avenue. This property is more fully described as Lot 7 in City Block K/7312 and is zoned R-7.5(A) which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a carport and provide a 1 foot setback which will require a special exception of 4 feet.

**LOCATION:** 3132 San Paula Avenue

**APPLICANT:** Isidro Soto

**REQUEST:**

- A special exception to the side yard setback regulations of 4’ is requested in conjunction with maintaining an existing carport\* that is accessory to a single family

home, and is located in the required 5' side yard setback on the west side of the property.

- \* Note that although a submitted floor plan/roof plan denotes "proposed carport," the applicant's son-in-law informed the Board Administrator that the carport that is the issue in this request is existing with no plans for enlarging or modifying it.

The Board of Adjustment should determine if the applicant complied with the Dallas Development Code provision related to the posting of the notification sign on the subject site with the finding that no notification sign was noted in any area on the site when the Board Administrator conducted his field visit on October 15, 2010, 28 days after the application was filed on September 17, 2010, and 14 days beyond the 14 days the applicant was required to post the sign on the site and remain posted until a final decision is made on the application.

The Dallas Development Code states that "The applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a final decision is made on the application. For tracts with street frontage, signs must be evenly spaced over the length of every street frontage, posted at a prominent location adjacent to a public street, and be easily visible from the street. For tracts without street frontage, signs must be evenly posted in prominent locations most visible to the public." The code additionally states "If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice. If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section."

The Board Administrator sent a letter to the applicant on October 21, 2010 which provided the Dallas Development Code provision related to the posting of notification signs (51A-1.106). In addition, the Board Administrator spoke with the applicant's son-in-law on October 25<sup>th</sup> and spoke of his discovery of no sign being on the site on his October 15<sup>th</sup> field visit. (As of November 8, 2010, neither the applicant nor anyone on his behalf had responded to this concern).

#### **STAFF RECOMMENDATION:**

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

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

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single family or duplex use when, in the opinion of

the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

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

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

### **GENERAL FACTS:**

- A 5' side yard setback is required in the R-7.5(A) zoning district.  
The applicant has submitted a site plan, floor plan/roof plan and elevation/section indicating the location of the carport 1' from the site's western side property line or 4' into the 5' side yard setback.
- The following information was gleaned from the submitted site plan and submitted floor plan/roof plan:
  - The carport is represented to be 30' in depth and approximately 44' in length (approximately 1,300 square feet in total area) of which 120 square feet or approximately 1/10 is located in the western side yard setback.
  - The carport is represented to be located at a point beginning behind what is noted on the plans as either an "existing one-story brick house" or a "one story brick."
- The following information was gleaned from the submitted elevation/section:
  - Represented to be from 8' – 10' in height, with "4 x 4 poles" of unspecified materials and "sheet metal roofing."
- The subject site is 125' x 60' (or 7,500 square feet) in area.
- According to DCAD, the site is developed with the following:
  - a structure in "average" condition built in 1954 with 1,290 square feet of living area,
  - a 480 square foot detached garage.
- 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.

### **BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

- Sept. 17, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 21, 2010: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- October 21, 2010: The Board Administrator wrote the applicant a letter that conveyed the following information given that the Board Administrator determined in a telephone conversation that the applicant did not speak fluent English:
- the panel, public hearing date and location of his public hearing on his application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the code standard regarding the posting of the notification sign;
  - information related to the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
  - the November 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials; and
  - a general description of the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- (Note that this letter referenced a staff person who can provide assistance in Spanish).
- October 25, 2010: The Board Administrator spoke with the applicant’s English speaking son-in-law regarding the following concerns:

- the panel, public hearing date and location of his public hearing on his father-in-law's application;
- the nature of the request: maintenance of the existing carport in the side yard setback;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the code standard regarding the posting of the notification sign, and his discovery of no sign being posted on the site on his October 15<sup>th</sup> field visit.

November 2, 2010: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

### **STAFF ANALYSIS:**

- The Board of Adjustment should determine if the applicant complied with the Dallas Development Code provision related to the posting of the notification sign on the subject site with the finding that no notification sign was noted in any area on the site when the Board Administrator conducted his field visit on October 15, 2010, 28 days after the application was filed on September 17, 2010, and 14 days beyond the 14 days the applicant was required to post the sign on the site and remain posted until a final decision is made on the application.
- If the Board of Adjustment were to determine that the applicant did not comply with the Dallas Development Code provision related to the posting of the notification sign, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice.
- If the Board of Adjustment were to determine that the applicant did comply with the Dallas Development Code provision related to the posting of the notification sign on the site, the Board could consider the special exception request as scheduled on November 16, 2010.
- This request focuses on maintaining an existing carport that is accessory to a single family home, and is located in the required 5' side yard setback on the west side of the property.
- A site plan, floor plan/roof plan, and elevation/section has been submitted representing the carport to be approximately 44' in length and approximately 30' in depth whereby about 1/10 is shown to be located in the required 5' setback on the west side of the site. The submitted elevation/section represents the carport to range in height from 8' – 10' in height with "4 x 4 poles" of unspecified materials and "sheet metal roofing."
- The applicant has the burden of proof in establishing the following:

- That granting this special exception to the side yard setback regulations of 4' will not have a detrimental impact on surrounding properties.
- As of November 8, 2010, no letters had been submitted in support or in opposition to the request.
- Typically, 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 in the side yard setback; would require the carport in the side yard setback to be maintained (in this case) in a specific design with specific materials and in a specific configuration; and would require the applicant to mitigate any water drainage-related issues that the carport may cause on the lot immediately west:
  1. Compliance with the submitted site plan, floor plan/roof plan, and elevation/section 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.
  5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board chooses to grant this side yard special exception request, and impose the submitted site plan and floor plan/roof plan as a condition, the applicant would only be provided exception for what has been applied for, in this case, exception for the carport structure in the required side yard setback as represented/ shown on these plans.

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

APPEARING IN FAVOR: Isidro Soto, 3132 San Paula, Dallas, TX

APPEARING IN OPPOSITION: No one

APPEARING AS TRANSLATOR: Claudia Ibarra, 1500 Marilla, Dallas, TX

**MOTION #1: Schweitzer**

I move that the Board of Adjustment in Appeal No. **BDA 090-104**, hold this matter under advisement until **January 18, 2010** because we find that the notification sign was not posted properly.

SECONDED: Harris

AYES: 4 – Richmond, Schweitzer, Harris, Hounsel

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

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**FILE NUMBER:** BDA 090-109

**BUILDING OFFICIAL'S REPORT:**

Application of Alan Hoffmann, represented by Rob Baldwin, for a variance to the front yard setback regulations at 2000 Lakeland Drive. This property is more fully described as Lot 1 in City Block 17/5244 and is zoned R-7.5(A) which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 5 foot front yard setback which will require a variance of 20 feet.

**LOCATION:** 2000 Lakeland Drive.

**APPLICANT:** Alan Hoffmann  
Represented by Robert Baldwin

**November 16, 2010 Public Hearing Notes:**

- The applicant submitted a revised site plan to the board at the public hearing.

**REQUEST:**

- A variance to the front yard setback regulations of 20 feet\* is requested in conjunction with constructing and maintaining a single family home structure on an undeveloped site, part of which would be located in one of the site's two 25' front yard setbacks (Groveland Drive). (No portion of the request is made in this application to construct/maintain any portion of a structure in the site's Lakeland Drive front yard setback).

\* Note that as of November 8, 2010, neither the applicant nor his representative had responded to the discrepancy that staff had discovered between what is specifically conveyed on the application (a variance of 20' where a 5' setback is to be provided on Groveland Drive) from that what is specifically shown on the submitted site plan (a 10' 1" setback provided on Groveland Drive which would create a variance need of 14' 11").

**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 zoned R-7.5(A) in that it is a corner lot with a restrictive area due to two front yard setbacks.

**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:

- (A) the variance is 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) the variance is 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) the variance is 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.

### **GENERAL FACTS:**

- Single family structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25’.
- The subject site is located at the east corner of Lakeland Drive and Groveland Drive. Regardless of how the proposed structure on the site may be oriented or addressed, the subject site has two 25’ front yard setbacks along both streets. The site has a 25’ front yard setback along Lakeland Drive (the shorter of the two frontages which is always deemed the front yard setback on a corner lot in a single family zoning district), and a 25’ front yard setback along Groveland Drive, the longer of the two frontages of this corner lot which would typically be regarded as a side yard where a 5’ side yard setback is required. The site’s Groveland Drive frontage is deemed a front yard setback nonetheless in order to maintain the continuity of the established front yard setback established by the lots northeast of the site that front/are oriented northwestward onto Groveland Drive.  
A scaled site plan has been submitted denoting a portion of the single family home to be located 10’ 1” from the Groveland Drive front property line or 14’ 11” into the 25’ front yard setback. (No encroachment is proposed in the site’s Lakeland Drive 25’ front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed structure to be located in the site’s Groveland Drive 25’ front yard setback is approximately 700 square feet in area (the “porch” component attached to the single family home) or approximately 1/3 of the approximately 2,400 square foot building footprint. (The site plan also denotes an approximately 700 square foot detached garage that is in compliance with setbacks).
- According to DCAD records, there are “no main improvements” on the site.
- The subject site is flat, rectangular in shape (155’ x 60’), and approximately 9,300 square feet in area. The site is zoned R-7.5(A) where lots in this zoning district are typically 7,500 square feet in area. This site has two 25’ front yard setbacks; and two 5’ side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.

- The site has approximately 125' x 30' of developable area left once its setbacks are accounted for as opposed to 125' x 50' of developable area left if the site were more typical with having just one front yard setback.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A) (Single family district 7,500 square feet)  
North: R-7.5(A) (Single family district 7,500 square feet)  
South: R-10(A) (Single family district 10,000 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 areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

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

**Timeline:**

- May 23, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 21, 2010: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- October 21, 2010: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the November 1<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 5<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;
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence; and
  - a discrepancy between information conveyed on his submitted application from what is conveyed on his submitted site plan.

October 25, 2010: The applicant emailed the Board Administrator designating a representative on his application. Staff in turn relayed information to the newly designated case representative that had been originally conveyed to the applicant.

November 2, 2010: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2010 The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "Comply with all C.O.D visibility requirements."

### **STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a single family home structure part of which would be located in one of the site's two 25' front yard setbacks (Groveland Drive).
- The structure that is the issue of this request is to be located on a site that has two front yard setbacks – a site with one front yard setback on Lakeland Drive (where no structure is proposed to be located in); the other front yard setback on Groveland Drive (where the proposed structure that is the issue of this request is to requested on the application to be 5' from the Groveland Drive front property line, and is shown on the submitted site plan to be 10' 1" from this property line).
- Regardless of how the proposed structure on the site may be oriented or addressed, the subject site has two 25' front yard setbacks along both streets. The site has a 25' front yard setback along Lakeland Drive (the shorter of the two frontages which is always deemed the front yard setback on a corner lot in a single family zoning district), and a 25' front yard setback along Groveland Drive, the longer of the two frontages of this corner lot which would typically be regarded as a side yard where a 5' side yard setback is required. The site's Groveland Drive frontage is deemed a front yard setback nonetheless in order to maintain the continuity of the established front yard setback established by the lots northeast of the site that front/are oriented northwestward onto Groveland Drive.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed structure to be located in the site's Groveland Drive 25' front yard setback is approximately 700 square feet in area (the "porch" component attached to the single family home) or approximately 1/3 of the approximately 2,400 square foot building footprint. (The site plan also denotes an approximately 700 square foot detached garage that is in compliance with setbacks).
- According to DCAD records, there are "no main improvements" on the site.

- The subject site is flat, rectangular in shape (155' x 60'), and approximately 9,300 square feet in area. The site is zoned R-7.5(A) where lots in this zoning district are typically 7,500 square feet in area. This site has two 25' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Groveland Drive front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The 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 R-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance request, subject to the submitted site plan, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure to be located 10' 1" from the Groveland Drive front property line (or as much as 14' 11" into this 25' front yard setback).

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2010**

APPEARING IN FAVOR: Robert Baldwin, 401 Exposition Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment, in Appeal No. **BDA 090-109**, on application of Alan Hoffman, LLC, **grant** the 20-foot variance to the minimum front yard setback regulations requested by this applicant 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 as amended is required.

SECONDED: **Hounsel**

AYES: 4 – Richmond, Schweitzer, Harris, Hounsel

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

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MOTION: **Harris**

I move to adjourn this meeting.

SECOND: **Schweitzer**

AYES: 4– Richmond, Schweitzer, Harris, Hounsel

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

**1:22 P.M.** - Board Meeting adjourned for **November 16, 2010.**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
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.