

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM
TUESDAY, MAY 17, 2005**

MEMBERS PRESENT AT BRIEFING: Randall White, Chair, Peggy Hill, Vice-Chair, Rev. H.J. Johnson, regular member, Ben Gabriel, regular member, and Marla Beikman, regular member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Donnie Moore, Chief Planner, Steve Long, Board Administrator, Trena Law, Board Secretary, TJ Okwubanego, Asst. City Attorney, Danny Sipes, Development Code Specialist and Jennifer Pitner, Senior Planner

MEMBERS PRESENT AT HEARING: Randall White, Chair, Peggy Hill, Vice-Chair, Rev. H.J. Johnson, regular member, Ben Gabriel, regular member, and Marla Beikman, regular member

MEMBERS ABSENT FROM HEARING: No one

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

9:12 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's May 17, 2005 docket.

1:06 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise

indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A April 19, 2005 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

MOTION: Johnson

I move to approve the Board of Adjustment April 19, 2005 public hearing minutes.

SECONDED: Beikman

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: N/A

REQUEST: Of the Board of Adjustment to consider amendments to Section 10 of the Board of Adjustment Working Rules of Procedure

GENERAL FACTS:

- On April 1, 2005, Panels A, B, and C of the Board of Adjustment held a special meeting where the Assistant City Attorney to the Board presented several legal points and parameters to the board members as points of information and for discussion purposes.
- The board members discussed the possibility of amending their “Working Rules of Procedure” whereby a provision would be added to Section 10. Public Hearings (see Attachment A). Members expressed what appeared to be consensual interest in considering the addition of a provision to this section that would provide specific measures and guidelines pertaining to documents that would be submitted to them at the briefing and/or public hearing (after monthly dockets had been mailed).
- The Board of Adjustment Chair directed staff to prepare language to be placed on the upcoming Panel A, B, and C’s April Miscellaneous Dockets whereby each panel could consider devising and adopting amendments to this section of the Working Rules of Procedure.

- The Board of Adjustment's Assistant City Attorney prepared a draft amendment to the rules in response to the board's request that would amend/add the "Public Hearing" section to the board's rules, an amendment specifically pertaining to "documentary evidence" (see Attachment B).
- At each of the three Board of Adjustment public hearings held in April, the panels were separately briefed that in terms of procedure, any amendment to the draft document prepared by the Assistant City Attorney would be so noted by staff at each panel meeting held in April, with an incorporation of all comments/amendments/recommendations made by each panel consolidated and presented for each panel's final consideration in May of 2005.
- Each of the three Board of Adjustment panels was presented the draft amendment in April of 2005 where comments/amendments to the draft were noted by staff.
- The Board of Adjustment's Assistant City Attorney prepared a final draft that would amend the "Public Hearing" section to the board's rules (see Attachment C). The City Attorney prepared the final draft incorporating the comments made by each panel at the April public hearings.
- The proposed amendment will be incorporated into the "Working Rules of Procedure" once (if) all three panels separately approve this final draft in May of 2005.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

MOTION: Hill

I move that the Board of Adjustment Panel A approve the amendments to Section 10 of the Board of Adjustment Working Rules of Procedure.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman,

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MISCELLANEOUS ITEM NO. 3

FILE NUMBER: Unassigned

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

LOCATION: 3110 Culver Street

APPLICANT: Julio Vasquez, represented by Esther Melenderz

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a waiver of a filing fee to be submitted in conjunction with a possible Board of Adjustment issue (see Attachment A). This letter contained some details on the applicant's finances.

Timeline:

- April 27, 2005 The applicant's representative submitted a letter requesting a fee waiver for a Board of Adjustment application that may be requested at the address referenced above (see Attachment A).
- April 27, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.
- April 27, 2005: The Board Administrator wrote the applicant's representative a letter that conveyed the following information:
- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
 - the criteria/standard that the Board will use in their decision to approve or deny the request; and
 - the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Ester Melanderz, 3110 Culver Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Johnson**

I move that the Board of Adjustment waive the filing fee to be submitted in conjunction with a potential board application.

SECONDED: **Gabriel**

AYES: 5 – White, Hill, Gabriel, Beikman, Gomez

NAYS: 0–

MOTION PASSED: 5–0 (Unanimously)

MISCELLANEOUS ITEM NO. 4

FILE NUMBER: BDA 045-204

REQUEST: To reimburse the filing fee to be submitted in conjunction with this Board of Adjustment application

LOCATION: 3507 Chicago St

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.

- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment application (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee for a Board of Adjustment application referenced above (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 5

FILE NUMBER: BDA 045-205

REQUEST: To reimburse the filing fee to be submitted in conjunction with this Board of Adjustment application

LOCATION: 3516 Chicago St

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment appeal (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);

- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee submitted in conjunction with the Board of Adjustment application referenced above (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: **Johnson**
AYES: 5 – White, Hill, Johnson, Gabriel, Beikman
NAYS: 0–,
MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 6

FILE NUMBER: BDA 045-206

REQUEST: To reimburse the filing fee submitted in conjunction with this Board of Adjustment application

LOCATION: 3525 Chicago St

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment application (see Attachment A).

Timeline:

- April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.
- April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:
- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
 - the criteria/standard that the Board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
 - the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.
- May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee for this Board of Adjustment application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 7

FILE NUMBER: BDA 045-207

REQUEST: To reimburse the filing fee submitted in conjunction with this Board of Adjustment application

LOCATION: 3529 Chicago St

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment appeal (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee submitted for this Board of Adjustment application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 8

FILE NUMBER: BDA 045-208

REQUEST: To reimburse the filing fee submitted in conjunction with this Board of Adjustment application

LOCATION: 3424 El Benito Dr

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment appeal (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;

- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 9

FILE NUMBER: BDA 045-209

REQUEST: To reimburse the filing fee submitted in conjunction with this Board of Adjustment application

LOCATION: 3520 El Benito Dr

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment appeal (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee submitted for this Board of Adjustment application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

MISCELLANEOUS ITEM NO. 10

FILE NUMBER: BDA 045-210

REQUEST: To reimburse the filing fee submitted in conjunction with this Board of Adjustment application

LOCATION: 3530 El Benito Dr

APPLICANT: Anna Lamberti

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that 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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s 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.
- The applicant submitted a letter to staff requesting a reimbursement of the filing fee submitted in conjunction with this Board of Adjustment appeal (see Attachment A).

Timeline:

April 21, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel A.

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

May 2, 2005 The applicant submitted a letter requesting a reimbursement of the filing fee submitted for this Board of Adjustment application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Anna Lamberti Holmes,
2800 N. Hampton Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** the request to reimburse the filing fee submitted in conjunction with the above case.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-190

BUILDING OFFICIAL'S REPORT:

Application of Michael and Michele Woodhouse for a special exception to the fence regulations at 5910 Ranchero Lane. This property is more fully described as a tract of land in City Block 8591 and is zoned R-10 (A) which limits the height of a fence in the

front yard to 4 feet. The applicant proposes to construct a 9 foot fence which would require a special exception of 5 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5910 Ranchero Lane

APPLICANT: Michael and Michele Woodhouse

REQUEST:

- A special exception to the fence height regulations of 5' is requested in conjunction with constructing a 6'-high open wrought iron fence with 8' 6"-high columns, and a 9'-high open iron entry gate in the 30'-Ranchero Lane front yard setback on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The submitted site plan makes the following notations:
 - The proposed fence to be located parallel to Ranchero Lane with a recessed entryway, and perpendicular to the street on the two "sides" of the site in the front yard setback;
 - The proposed fence to be approximately 200 feet long along Ranchero, and 30 feet long on each "side" of the site in the 30' front yard setback;
 - The proposed fence to be located on the property line and approximately 22' from the Ranchero Lane pavement line; and
 - The proposed gate to be located 10' from the property line and approximately 32' from the projected Ranchero Lane pavement line.
- The submitted elevation plan makes the following notations:
 - A 6'-high open iron fence;
 - 8' 6"-high "pillars" (that are 1' 4" squares); and
 - 9'-high open metal gate with two, 7'-high stone entry wing walls.
- There has not been a landscape plan (or a site plan with specified landscape materials) submitted in conjunction with this appeal.
- The proposed fence along Ranchero Lane would be located on a site where no single family home would have direct frontage to the proposed fence.

- The Board Administrator conducted a field visit of the site and surrounding area along Ranchero Lane (approximately 500' east and west of the site) and noted the following visible fences above four (4) feet high which appeared to be located in the front yard setback (Note that these locations and dimensions are approximations):
 - A 6'-high open metal fence with 7'-high columns located immediately east of the site;
 - A 6'-high open metal fence located 3 lots west of the site; and
 - A 6'-high wrought iron fence with solid 8'-high stone columns located atop a 4'-high stone retaining wall 3 lots northwest of the site (see the "Zoning/BDA History" section of this case report for further details).

BACKGROUND INFORMATION:

Zoning:

Site: R-10 (A) (Single family district 10,000 square feet)
North: R-10 (A) (Single family district 10,000 square feet)
South: R-10 (A) (Single family district 10,000 square feet)
East: R-10 (A) (Single family district 10,000 square feet)
West: R-10 (A) (Single family district 10,000 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:

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

Timeline:

- March 28, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;

- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the May public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

May 2, 2005:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

A review comment sheet was submitted from the area Code Compliance Inspector marked "Recommends that this be denied" commenting "Zoning should be consistent with no exceptions to avoid future conflicts with residents in area."

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed Rancho Lane fence, columns, and gate relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed fence relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed fence (6'), columns (8' 6"), and gate (9'), and the building materials of the fence and gate (open iron pickets).
- The proposed fence is to be constructed of durable material.
- The proposed fence would be located immediately across from single family homes that "side" onto Rancho Lane and "front" Tanzy Road and Whispering Oaks Drive (two north-south streets that are perpendicular to the east-west Rancho Lane).
- As of May 4th, no letters had been submitted to staff either in support or in opposition to the proposed fence.
- Granting this special exception of 5' with conditions imposed that the applicant complies with the submitted site plan and fence elevation would assure that the proposed fence, columns, and gate are constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment **grant** application **BDA 045-190** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

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

SECONDED: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0(Unanimously)

FILE NUMBER: BDA 045-194

BUILDING OFFICIAL'S REPORT:

Application of Thomas A. Goodwin III for a special exception to allow an additional dwelling unit at 7107 Brookshire Circle. This property is more fully described as part of Lot 21 and all of Lot 22 in City Block 5/6586 and is zoned R-16 (A) which limits the property to one dwelling unit per lot. The applicant proposes to construct an additional dwelling unit which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 7107 Brookshire Circle

APPLICANT: Thomas A. Goodwin III

REQUEST:

- A special exception to the single family use regulations is requested in conjunction with constructing an additional “dwelling unit” on a site developed with a single family home. The proposed additional “dwelling unit” in this appeal is a 1-story studio/home office structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT IN A SINGLE FAMILY ZONING DISTRICT:

The board may grant a special exception within the single family use regulations to authorize an additional dwelling unit in any single family zoning district when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

GENERAL FACTS:

- “Single family” use is defined in the Dallas Development Code as “one dwelling unit located on a lot,” however, the code allows the Board of Adjustment to grant a special exception to this provision to allow an additional dwelling unit when, in their opinion, the additional dwelling unit will not:
 - 1) be used as rental accommodations; or
 - 2) adversely affect neighboring properties.
- The subject site is 52,859 square feet (1.21 acres) in area and developed with, according to DCAD records, a single family home that is in very good condition, built in 1957 with 4,417 square feet of living area.
- The site plan indicates that the additional “dwelling unit” structure has a building footprint of approximately 24’ x 42’ or is about 1,000 square feet in area.
- The site plan indicates that the additional “dwelling unit” structure will be located 13’ from the nearest property line which in this case is the side property line on the west. This structure will be built on top of the existing accessory structure which is 3’ from the west property line. Approximately 8’ of the existing structure will not be built upon.
- The submitted elevation indicates that the 1-story additional “dwelling unit” structure will be approximately 15’ in height.
- Floor plans indicate the following spaces within the proposed detached 1-story additional “dwelling unit” structure on the site:
 - a studio/home office, kitchen, bath, and closet on the 1st floor.
 - storage space will be below the 1st floor, only accessible from the outside.
- The Dallas Development Code defines “dwelling unit” as “one or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping conditions.”
- The Dallas Development Code defines “family” as “individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.”
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot.”
- The Board of Adjustment has seen an increased number in special exceptions for additional dwelling units since November of 2004. This increase is most likely

somewhat attributable to a memo that the Building Official wrote to city plan reviewers in September in 2004 (see Attachment A). This memo requested that plan reviewers carefully review applications for an addition or accessory structure on a lot zoned single family with regard for compliance with code-provisions related to the definitions of “dwelling unit,” “ family,” and “single family.”

- Currently the City of Dallas is in the process of considering an amendment to the Development Code with regard to provisions related to single family accessory structures which are at times being interpreted as additional dwelling unit structures by Building Inspection due to a recent change in policy. Any official amendment to the Dallas Development Code would be made by the City Council.
- If this request is granted, a completed deed restriction stating that the additional dwelling unit on the site will not be used for rental accommodations must be submitted to the Board Administrator, approved by the City Attorney’s Office as to form, and filed in the deed records of the applicable county (in this case, Dallas County) before the applicable permits for this additional dwelling unit can be issued by the City.
- The applicant submitted six (6) letters from people who support the request (see Attachment B).

BACKGROUND INFORMATION:

Zoning:

Site: R-16 (A) (Single family district 16,000 square feet)
North: R-16 (A) (Single family district 16,000 square feet)
South: R-13 (A) (Single family district 13,000 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, south, east, and west are developed with single family uses.

Zoning/BDA History:

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

Timeline:

March 30, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 21, 2005: The Board Administrator contacted the applicant and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the May public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 26, 2005 The applicant submitted information beyond what was submitted with the original application (see Attachment B).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, Senior Planner Pitner, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The proposed 1-story "dwelling unit" structure meets all setback, lot coverage, and height regulations.
- As of May 6, 2005, no letters in opposition to this request had been submitted to staff, and six letters from neighbors who support the request have been submitted.
- If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and site plan, the proposed "dwelling

unit” structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 1-story garage/office/studio structure.

- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-194** 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 elevation is required; and
- The property must be deed-restricted to prevent the additional dwelling unit on the site from being used as rental accommodations.

SECONDED: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-204

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3507 Chicago Street. This property is more fully described as Lot 27 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3507 Chicago Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.
Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the Chicago Street front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is developed with a single family home in poor condition that was built in 1948 and has 480 square feet of living area.

- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with single family use. The area to the north, south, and east are developed with single family uses.

Zoning/BDA History:

- | | |
|--|--|
| <p>1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site)</p> | <p>On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations.</p> |
| <p>2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site)</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.</p> |
| <p>3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site)</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.</p> |
| <p>4. BDA 045-150, 3513 El Benito Street (a site located six lots</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to</p> |

north of the subject site)

the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

5. BDA 045-151, 3519 El Benito Street (a site located seven lots north of the subject site)

On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

6. BDA 045-152, 3521 El Benito Street (a site located eight lots north of the subject site)

On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

Timeline:

March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.
- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-204** 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: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-205

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc. represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3516 Chicago Street. This property is more fully described as Lot 13 in City Block J/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3516 Chicago Street

**APPLICANT: Dallas Area Habitat for Humanity, Inc.
Represented by Anna Lamberti Holmes**

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial

reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the Chicago Street front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is undeveloped.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is undeveloped. The area to the north, south, and west is developed with single family uses.

Zoning/BDA History:

1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434,

On December 14, 2004, the Board of Adjustment Panel C denied a request to

3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site)

waive the filing fees to be submitted in conjunction with possible variance appeals at these locations.

2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site) On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.
3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site) On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.
4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site) On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.
5. BDA 045-151, 3519 El Benito Street (a site located seven lots north of the subject site) On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.
6. BDA 045-152, 3521 El Benito Street (a site located eight lots north of the subject site) On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

Timeline:

March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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.”

- April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:
- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
 - the criteria/standard that the Board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the Board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
 - the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in

area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.

- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.
- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-205** 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: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-206

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3525 Chicago Street. This property is more fully described as Lot 31 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3525 Chicago Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.,
Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the Chicago Street front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is developed with a single family home in poor condition that was built in 1948 and has 680 square feet of living area.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.

- A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with single family use. The area to the north and east are undeveloped, and the area to the south is developed with single family uses.

Zoning/BDA History:

- | | |
|--|--|
| <p>1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site)</p> | <p>On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations.</p> |
| <p>2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site)</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.</p> |
| <p>3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site)</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot.</p> |
| <p>4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site)</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.</p> |
| <p>5. BDA 045-151, 3519 El Benito</p> | <p>On February 14, 2005, the Board of</p> |

Street (a site located seven lots north of the subject site)

Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

6. BDA 045-152, 3521 El Benito Street (a site located eight lots north of the subject site)

On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

Timeline:

March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public

hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.
- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-206** 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: Gabriel
AYES: 5 – White, Hill, Johnson, Gabriel, Beikman
NAYS: 0–,
MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-207

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3529 Chicago Street. This property is more fully described as Lot 32 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3529 Chicago Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.,
Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the Chicago Street front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is undeveloped.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-5 (A) (Single family residential 5,000 square feet)
<u>North:</u>	R-5 (A) (Single family residential 5,000 square feet)
<u>South:</u>	R-5 (A) (Single family residential 5,000 square feet)
<u>East:</u>	R-5 (A) (Single family residential 5,000 square feet)
<u>West:</u>	R-5 (A) (Single family residential 5,000 square feet)

Land Use:

The subject site is undeveloped. The area to the north, south, and east is developed with single family uses and the area to the west is undeveloped.

Zoning/BDA History:

1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site) On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations.

- | | |
|--|---|
| 2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
| 5. BDA 045-151, 3519 El Benito Street (a site located seven lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
| 6. BDA 045-152, 3521 El Benito Street (a site located eight lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |

Timeline:

- March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.

- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-207** 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: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-208

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3424 El Benito Street. This property is more fully described as Lot 6 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3424 El Benito Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.
Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the El Benito Drive front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is developed with a single family home in poor condition that was built in 1948 and has 440 square feet of living area.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with single family use. The area to the north, south and east is developed with single family uses.

Zoning/BDA History:

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|---|---|
| 1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site) | On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations. |
| 2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
| 5. BDA 045-151, 3519 El Benito Street (a site located seven lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |

6. BDA 045-152, 3521 El Benito Street (a site located eight lots north of the subject site)

On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

Timeline:

March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."

April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the

Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.
- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-208** 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: **Gabriel**

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-209

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3520 El Benito Street. This property is more fully described as Lot 14 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3520 El Benito Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.
Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.

- The single family structure is proposed to be located 12' from the El Benito Drive front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is undeveloped.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is undeveloped. The area to the north, south, and east is developed with single family uses and the area to the west is undeveloped.

Zoning/BDA History:

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| <p>1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site)</p> | <p>On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations.</p> |
| <p>2. BDA 045-148, 3429 El Benito Street (a site located immediately</p> | <p>On February 14, 2005, the Board of Adjustment Panel C approved a variance to</p> |

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| north of the subject site) | the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
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Timeline:

- March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."
- April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:

- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.

- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

•
BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-209** 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: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (Unanimously)

FILE NUMBER: BDA 045-210

BUILDING OFFICIAL'S REPORT:

Application of Dallas Area Habitat for Humanity, Inc., represented by Anna Lamberti Holmes for a variance to the front yard setback regulations at 3530 El Benito Street. This property is more fully described as Lot 16 in City Block I/7111 and is zoned R-5 (A) which requires a 20 foot front yard setback. The applicant proposes to construct a single family dwelling and provide a 12 foot front yard setback which would require a variance of 8 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3530 El Benito Street

APPLICANT: Dallas Area Habitat for Humanity, Inc.,
 Represented by Anna Lamberti Holmes

REQUEST:

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a 1-story, approximately 1,170 square foot single-family home.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- A 20'-front yard setback is required in the R-5(A) zoning district.
- The single family structure is proposed to be located 12' from the El Benito Drive front property line.
- The site is flat, rectangular in shape (55' x 75'), and approximately 4,125 square feet in area.
- The typical lot size in R-5 (A) zoning district is 5,000 square feet.
- The site plan indicates that the building footprint of the proposed single family structure is approximately 1,621 square feet or 54' x 24.8' in area.
- The area of the proposed single family structure located in the 20'-front yard setback is approximately 192 square feet or 24.8' x 8' in area.
- The site plan indicates that over half of the area in the front yard setback is a porch area attached to the proposed home.
- DCAD records indicate that the site is undeveloped.
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
 - A letter that further explains the requests and why it should be granted.
 - A list of other lots in R-5(A) zoning detailing addresses, lot sizes, and structure square footages.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is undeveloped. The area to the north, south, and west is developed with single family uses and the area to the east is undeveloped.

Zoning/BDA History:

- | | |
|---|---|
| 1. Unassigned case numbers, 3406, 3420, 3424, 3428, 3434, 3438, 3502, 3520, 3524, 3530, 3425, 3429, 3507, 3513, 3517, and 3521 El Benito Street (lots including the subject site) | On December 14, 2004, the Board of Adjustment Panel C denied a request to waive the filing fees to be submitted in conjunction with possible variance appeals at these locations. |
| 2. BDA 045-148, 3429 El Benito Street (a site located immediately north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 3. BDA 045-149, 3509 El Benito Street (a site located five lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,200 square foot single family home on an undeveloped lot. |
| 4. BDA 045-150, 3513 El Benito Street (a site located six lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
| 5. BDA 045-151, 3519 El Benito Street (a site located seven lots north of the subject site) | On February 14, 2005, the Board of Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot. |
| 6. BDA 045-152, 3521 El Benito | On February 14, 2005, the Board of |

Street (a site located eight lots north of the subject site)

Adjustment Panel C approved a variance to the front yard setback regulations of 8' requested in conjunction with constructing an approximately 1,170 square foot single family home on an undeveloped lot.

Timeline:

- March 30, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case 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, "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."
- April 26, 2005: Senior Planner Pitner met with the applicant and conveyed the following information:
- the public hearing date and panel that will consider the request (where his attendance is strongly encouraged);
 - the criteria/standard that the Board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the Board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
 - the Board will take action on the matter at the May public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.
- April 29, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).
- May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the

Development Services Transportation Planner, Senior Planner Pitner; and the Assistant City Attorney to the Board.

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

May 2, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A).

STAFF ANALYSIS:

- The attached plat map indicates that the site is approximately 4,125 square feet. This total lot size is less than the typically-sized lot in the R-5(A) zoning district at 5,000 square feet.
- A document submitted by the applicant (see Attachment A) lists other lots zoned R-5(A) that are more typical in lot size (i.e. closer to/or beyond 5,000 square feet in area) with homes on these larger sized lots that are similar in size to what is proposed on the subject site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the front yard setback would be limited in this case to an area of less than 200 square feet, over half of which is a front porch.
- Granting this variance would allow an approximately 1,170 square foot single family home to encroach 8' into the 20' front yard setback.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment **grant** application **BDA 045-210** 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: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTIONPASSED:5-0 (Unanimously)

FILE NUMBER: BDA 045-218

BUILDING OFFICIAL'S REPORT:

Application of Norman Alston for a special exception to the landscape regulations at 2211 N. Lamar Street. This property is more fully described as Lot 1 in City Block 391 and is zoned PD 193 CA-2 which requires landscaping to be installed with new additions. The applicant proposes to construct an addition and provide an alternate landscape plan which would require a special exception to the landscape regulations. Referred to the Board of Adjustment in accordance with Section 51-3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 2211 N. Lamar Street

APPLICANT: Norman Alston

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with / triggered by adding a new concrete deck with metal canopy onto an existing 4-story office structure (The White Swan Building).

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

Section 26(a)(4) of Ordinance No. 21859, which establishes PD No. 193, 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.

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the Landscape Regulations with an increase in non-permeable coverage and/or increase in floor area.
- The applicant is proposing an alternate landscape plan that does not fully comply with the landscape regulations, specifically a landscape plan where the applicant is specifically requesting relief from the location and the width of the required sidewalks and the number of street trees.
- The City of Dallas Chief Arborist identified the following ways in which the alternate landscape plan does not comply with the landscape regulations:

1. The applicant is required to provide 1 street tree for each 25' of street frontage (which in this case is 12 street trees).
The applicant is *proposing* to plant 6 street trees along Houston Street and no trees along N. Lamar.
 2. The applicant is required to provide a 6'-wide sidewalk located between 5' – 12' from the street curb.
The applicant is *proposing* to provide a sidewalk at the back of the street curb along N. Lamar that ranges in width from 4' to 9.5', and to provide a sidewalk at the back of the curb along Houston that is 9.5'-wide but has tree grates in sections that narrow the sidewalk width to 4.5 feet.
- The City of Dallas Chief Arborist identified the following “Factors for Consideration:”
 - The site is developed and appears that existing conditions will preclude the owner from being able to meet the landscape requirements.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (CA-2 Subdistrict) (Planned Development District, Central Area)
North: PD No. 193 (CA-2 Subdistrict) (Planned Development District, Central Area)
South: PD No. 193 (CA-2 Subdistrict) (Planned Development District, Central Area)
East: PD No. 193 (CA-2 Subdistrict) (Planned Development District, Central Area)
West: PD No. 582 (Planned Development District)

Land Use:

The subject site is developed with a 4-story office building (The White Swan Building). The area to the north is underdevelopment; the areas to the east and south are developed with office and retail uses; and the area to the west is undeveloped.

Zoning/BDA History:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. BDA 023-088, 2201 N. Lamar Street (the lot immediately south of the subject site) | <p>On June 24, 2003, the Board of Adjustment Panel A granted an appeal for a landscape special exception requested in conjunction with constructing and maintaining a concrete entry stairwell and a patio/deck to an existing restaurant (Hooters) structure. The board imposed a condition whereby the applicant had to fully comply with the submitted landscape plan.</p> |
|--|---|

Timeline:

- April 1, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the May public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.
- A review comment sheet was submitted from the Code Compliance District Manager marked "Has no objections." In addition, the City of Dallas Chief Arborist submitted a memo regarding this appeal (see Attachment A).

STAFF ANALYSIS:

- This request is triggered by adding a new concrete deck with new metal canopy on a building that according to DCAD was constructed in 1930.
- Granting this request (subject to a condition that the applicant complies with the submitted landscape plan) will result in allowing the applicant to add the deck and

canopy to the site and deviate from the PD No. 193 landscape regulations in the following two ways:

1. The applicant would be required to plant only 6 of the required 12 street trees (all 6 trees to be "excepted" along Lamar Street where there is only a 4' distance between the curb line and the existing structure that was built in 1930);
 2. The applicant would be granted an exception to locating the 6'-wide sidewalk between 5' – 12' from the back of the street curb around the entire site (where in some locations there is only a 4' distance between the curb line and the existing structure that was built in the 1930's).
- As of May 10, 2005, no additional information had been submitted to staff from the applicant.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment in **Appeal No. BDA 045-218**, on application of Norman Alston for a special exception to the landscape regulations is **granted**, subject to the following condition:

- Compliance with the submitted landscape plan is required.

SECONDED: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (unanimously)

FILE NUMBER: BDA 045-189

BUILDING OFFICIAL'S REPORT:

Application of Winston Water Cooler LTD., represented by Dwayne Ferrell, for special exceptions to the Visibility Obstruction Regulations at 6626 Oakbrook Blvd. This property is more fully described as a tract of land in City Block B/7934 and is zoned IR which requires that no structure may be located in the required visibility triangles at intersections and drive approaches. The applicant proposes to maintain a fence and other elements within the visibility triangles which would require special exceptions. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 6626 Oakbrook Blvd

APPLICANT: Winston Water Cooler LTD.,
Represented by Dwayne Ferrell

REQUESTS:

- Special exceptions to the visibility obstruction regulations are requested in conjunction with maintaining an existing 6'-high open chain fence that is located in the 45'-visibility triangle at the intersection of Oakbrook Boulevard and Prudential Drive, and in three 20'-visibility triangles at drive approaches on these two streets (one drive approach triangle on Oakbrook Boulevard, and two drive approach triangles on Prudential Drive). In addition, the applicant is requesting to maintain storage items in one of the 20'- drive approach visibility triangles on Prudential Drive. The site is currently developed with an office/warehouse use (Winston Water Cooler).

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - In a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20-foot visibility triangles at drive approaches); and
 - Between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- Prudential Drive is a cul-de-sac street that ends two lots east of the subject site.
- Oakbrook Boulevard is a street with a median/parkway where traffic exiting the subject site must turn right/north.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). The information includes the following:
 - An account that provides more details about the requests, and why they should be granted;
 - A site plan that indicates the location of the 6' open chain link fence on the site (but not the location of the storage materials) in the visibility triangles; and
 - Photos of the site (that will be available for review upon request at the briefing and public hearing).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with an office/warehouse use (Winston Water Cooler). The areas to the north, east, south, and west are developed with office/warehouse 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:

- March 23, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2005: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the May public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 29, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

A review comment sheet was submitted from a District Manager from Code Compliance that indicated "Has no objections." In addition, a review comment sheet was submitted by the Development Services Transportation Engineer in conjunction with this application. The engineer commented that he has no objections to this request if the following conditions are imposed:

- The fence must be chain link; and
- Installation of "No Parking Any Time" signs on the south side of Prudential from Oakbrook Boulevard to the driveway is required.

STAFF ANALYSIS:

- If the requests are granted, subject to compliance with the submitted site plan, an existing 6'-high chain link fence would be "excepted" into the Oakbrook Boulevard/Prudential Drive 45' visibility triangle, two 20' drive approach triangles along Prudential Drive, and one 20' drive approach triangle along Oakbrook Boulevard. Note that although the applicant is requesting that the board also "except" existing storage items that are located in a 20' drive approach triangle along Prudential Drive, the location of these storage materials has not been noted on the submitted site plan.
- The Development Services Transportation Engineer has indicated that he has no objections to the request if the following conditions are imposed:
 - The fence must be chain link; and
 - Installation of "No Parking Any Time" signs on the south side of Prudential from Oakbrook Boulevard to the driveway is required.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Dwayne Ferrell, 101 Whitehurst, Mesquite, TX

APPEARING IN OPPOSITION: No one

MOTION: Hill

I move that the Board of Adjustment in **Appeal No. BDA 045-189**, on application of Winston Water Cooler, Ltd., **grant** the special exception to the visibility obstruction regulations contained in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required;
- The fence in the visibility triangle must be chain-linked;
- The applicant must install and maintain a “No Parking Anytime” sign on the south side of Prudential from Oakbrook Boulevard to the driveway; and
- No storage items are allowed to be located in the visibility triangles.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman,

NAYS: 0–,

MOTION PASSED: 5–0 (unanimously)

FILE NUMBER: BDA 045-196

BUILDING OFFICIAL'S REPORT:

Application of Robert Reeves, Robert Reeves & Assoc., Inc. for a variance to the height regulations at 2133 Olive Street (aka 2112 N. Harwood Street). This property is more fully described as a tract of land in City Block 525 and is zoned P.D. 193 HC which limits the height of a structure to 240 feet. The applicant proposes to construct a 370 foot building which would require a variance of 130 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102 (d) (10) of the Dallas Development Code, as amended, which states the power of the Board to variances.

LOCATION: 2133 Olive Street (aka 2112 N. Harwood Street)

APPLICANT: Robert Reeves
Robert Reeves & Assoc., Inc

May 17, 2005 Public Hearing Notes:

- The following information was submitted at the public hearing:
 - A letter from the applicant’s representative requesting a delay of the matter until June 14, 2005, to enable his clients to finalize their preparations (Attachment B).
 - A document entitled “Empty Spaces: Are Texas Office Markets on the Road to Recovery?” from a person in opposition to the request (Attachment C).

REQUEST:

- A variance to the height regulations of 130' is requested to construct a 24-story, 370'-high office tower on site that is partially undeveloped and partially developed with office uses.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- The maximum permitted height in the PD No. 193 (HC Subdistrict) is 240 feet.
- The submitted site plan indicates that the site will be developed with a 7-level parking garage and a 23-story, 507,000 square foot, 370'-high office building. (The applicant explained that the reference made in his letter about a "twenty-four story high-rise office building" accounts for a story/floor devoted for mechanical equipment atop 23 floors devoted for parking structure/office use).
- The submitted site plan indicates that only about 20% of the site would be devoted to the tower.
- The submitted site plan indicates that the tower building footprint is about 210' x 110' (or about 23,100 square feet per floor).
- The site is flat, irregular in shape (171' on the south, 737' on the east, 226' on the north, and 644' on the west), and approximately 2.90 acres in area.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - A letter that provides further details about the request and why it should be granted;
 - An aerial photo of the site and surrounding area;
 - Drawings of the tower in context with other existing buildings in the area;
 - An elevation of the proposed tower; and

- An exhibit that identifies areas where the zoning allows buildings to exceed 240' in height.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 HC (Planned Development District, Heavy Commercial)
North: PD No. 334 (Planned Development District)
South: PD No. 145 (Planned Development District)
East: PD No. 193 HC (Planned Development District, Heavy Commercial)
West: PD No. 193 HC (Planned Development District, Heavy Commercial)

Land Use:

The subject site is partially undeveloped and partially developed with office uses. The area to the north is undeveloped; and the areas to the east, south, and west are developed with office uses.

Zoning/BDA History:

- | | |
|--|---|
| 1. BDA 967-292, 2100 McKinney Avenue (the lot northeast of the subject site) | On September 15, 1997, the Board of Adjustment Panel C granted a request for a variance to height regulations of 40' in conjunction with constructing a 280' high office tower. |
|--|---|

Timeline:

- March 22, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2005: The Board Administrator left a message with the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;

- the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the May public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 29, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

A review comment sheet was submitted from a District Manager from Code Compliance that indicated "Has no objections."

STAFF ANALYSIS:

- The site is flat and approximately 2.90 acres in area.
- If the Board were to grant the height variance request of 130 feet (or 54% higher than what is permitted in PD No. 193 HC Subdistrict), subject to the submitted site plan and elevation, the site could be developed with a 24-story, 370'-high office tower that would occupy about 20% of the site's total 2.9-acre area.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Richard Brink, 1999 McKinney, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment in **Appeal No. BDA 045-196**, hold this matter under advisement until **June 14, 2005**.

SECONDED: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman,

NAYS: 0–,

MOTION PASSED: 5–0 (unanimously)

FILE NUMBER: BDA 045-192

BUILDING OFFICIAL'S REPORT:

Application of Allegro Management, Inc., represented by Robert Baldwin for a special exception to the fence regulations at 5131 Deloache Avenue. This property is more fully described as Lot 4 in City Block 9/5582 and is zoned R-1AC (A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 6 inch fence which would require a special exception of 4 feet 6 inches. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5131 Deloache Avenue

APPLICANT: Allegro Management, Inc.
Represented by Robert Baldwin

May 17, 2005 Public Hearing Notes:

- The applicant, his representative, and an opposing property owner met during the public hearing and presented a revised proposal that was mutually agreed upon.

REQUEST:

- A special exception to the fence height regulations of 4 feet 2 inches* is requested in conjunction with constructing a 6'-high open wrought iron fence with 7' 1"-high brick columns, and 6'-high wood and steel entrance entry gates with 8' 2'-high brick entry columns in the 40'-Deloache Avenue front yard setback on a site being developed with a single family home.

* Note that although the applicant has requested a special exception of 4' 6", it has been established from the applicant that there will be no portion of a fence, column or gate in the front yard setback higher than 8' 2", hence a need for a fence special exception of 4' 2".

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The submitted site plan makes the following notations:
 - The proposed fence to be located parallel to Deloache Avenue with two recessed entryways;
 - The proposed fence to be approximately 220 feet long along Deloache Avenue;
 - The proposed fence to be located about 2' from on the property line and approximately 16' from the Deloache Avenue pavement line; and
 - The proposed gates to be located about 19' from the property line and approximately 33' from the projected Deloache Avenue pavement line.
- The submitted elevation plan makes the following notations:
 - A 6'-high open wrought iron fence with 7' 1"-high brick and cast stone columns;
 - 6'-high wood and steel entrance gates; and
 - 8' 2"-high brick entry columns with cast stone caps.
- A "variance landscape plan" has been submitted in conjunction with the application that details the following landscape materials to be located at the two entry ways:
 - 12 Crape Myrtle trees;
 - 7 Nellie R. Stevens Holly (5-foot height);
 - "shrubs, 2-foot height;"
 - "groundcover;" and
 - "seasonal color."
- The proposed fence would be located on a site where three single family homes would have direct frontage to the proposed fence none of which have a fence higher than 4' in their front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Deloache Avenue from Inwood Road to Meadowbrook Road which appeared to be located in the front yard setback (Note that these locations and dimensions are approximations):
 - A 6'-high open metal fence with 5' high brick columns west of the site;
 - A 4'-high open metal fence with 5' high brick columns south of the site;
 - A 5-foot open metal fence with 6.5' high columns two lots east of the site (see the "[Zoning/BDA History](#)" section of this case report for further details); and
 - An 8'-high open wrought iron fence with 9' 3" high masonry columns, a 12' 2" high open wrought iron entry gates with 10' 11" high masonry columns along Deloache Avenue and 9' 3" high columns along Meadowbrook Drive located 3 lots south of the site (see the "[Zoning/BDA History](#)" section of this case report for further details).
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - A letter that further details why the request should be granted; and
 - A map indicating the location of properties in the area with fences over four feet high in relation to the subject site.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is being 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 045-135, 5131 Deloache Avenue (the subject site)

On January 18, 2005, the Board of Adjustment Panel A granted a request for a special exception to allow an additional dwelling unit on the site. The board imposed the following conditions: Compliance with the submitted site plan and elevation is required; and the property must be deed restricted to prohibit the additional dwelling unit from being used for rental accommodations. The case report states that the request was made in conjunction with constructing a 2-story garage/hobby room additional "dwelling unit" structure on the site.
2. BDA 012-247, 5131 Deloache Avenue (the subject site)

On December 10, 2002, the Board of Adjustment Panel A granted a request for a special exception to the front yard fence height regulations of 3' 3.5", subject to the following conditions: The request is maintain a 6'-high wrought iron fence with stone columns not to exceed 7' 3.5" in height; and compliance with the revised site plan and elevation submitted at the public hearing is required; and denied a request for a special exception of 3' 5" to the side yard fence height regulations. The case report states that the original request was made to construct an 8'-high open metal fence with a 2' 3" -high masonry base, and 9' 3.5"-high columns in the front yard setback, and a two,

- 9' 3.5"-high columns to be located in the side yard setbacks.
3. BDA 045-191, 5210 Deloache Avenue (the lot southeast of the subject site)
On May 18, 2005, the Board of Adjustment Panel B will consider a request for a special exception to the fence height regulations of 5' to construct a 7'-high open wrought iron fence with 8'-high cast stone columns, and a 9'-high open wrought iron entrance entry gate with 8'-high cast stone entry columns and an 8'-high open wrought iron service gate with 8'-high cast stone entry columns in the 40'-Deloache Avenue front yard setback on a site being developed with a single family home.
 4. BDA 012-248, 9430 Inwood Road (the lot immediately west of the site's rear third)
On October 22, 2002, the Board of Adjustment Panel A will consider an application for special exceptions to the front and side yard fence height regulations needed in conjunction with constructing and maintaining an 8' high solid wall with 9' 3.5" entry columns. The staff is recommending denial of both requests without prejudice.
 5. BDA 012-145, 5231 Deloache Avenue (two lots immediately east of the site)
On March 26, 2002, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations "to maintain a 5 foot fence except for within 5' of the existing driveway in which case the fence can rise to a maximum of 6.5 feet. The support pillars must be at least 18 feet apart and not wider than 24 inches and not taller than 5.5 feet. Within 5 feet of the driveway, the pillars can rise to 6.5 feet. This height limitation should include the pillars and any fixtures on top of them. No part of the fence on the front of the property should have a stone wall as part of the fence. The fence should be built with vertical iron sections that are at least four inches apart." (Staff has recommended that this request be denied).

6. BDA 990-238, 5238 Deloache Avenue (three lots immediately southeast of the site)

On March 28, 2000, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations needed in conjunction with constructing and maintaining an HVAC and pool equipment mechanical pad, and a special exception to the fence regulations of 8' 2" with conditions, needed in conjunction with constructing and maintaining an 8' high open wrought iron fence with 9' 3" high masonry columns, a 12' 2" high open wrought iron entry gates with 10' 11" high masonry columns along Deloache Avenue and 9' 3" columns along Meadowbrook Drive. Staff had recommended denial of the variance request and approval of the special exception request.

Timeline:

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

April 21, 2005: The Board of Adjustment Secretary assigned this case 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, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

April 21, 2005: The Board Administrator contacted the applicant and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the April 29th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the May public hearing after considering the information/evidence and

testimony presented to them by the applicant and all other interested parties.

April 29, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

May 2, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

A review comment sheet was submitted from a District Manager from Code Compliance that indicated "Has no objections."

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed fence, columns, and gates relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed fence relative to the lot.
- A scaled elevation has been submitted that documents the height of the proposed fence (6'), columns (7' 1"), gates (6'), and entry gates columns (8' 2"), and the building materials of the fence (open wrought iron), columns (brick), and gates (wood and steel).
- The proposed fence is to be constructed of durable material.
- The proposed fence would be located immediately across from a single family home that does not have a fence higher than 4' in its front yard setback. (The applicant has, however, submitted a map that indicates that there are four lots along Deloache Avenue between Inwood Road and Meadowbrook Drive that have fences higher than 4' in front yard setbacks).
- As of May 6th, no letters had been submitted to staff either in support or in opposition to the proposed fence.
- Granting this special exception of 4' 6" with conditions imposed that the applicant complies with the submitted site plan/landscape plan and fence elevation would assure that the proposed fence, columns, and gates are constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: May 17, 2005

APPEARING IN FAVOR: Robert Baldwin, 6035 Vanderbilt., Dallas, TX
John Carona, 2415 C Colby, Dallas, TX

APPEARING IN OPPOSITION: Tucker Enthoven, 5215 Deloache Ave., Dallas, TX

MOTION: Gabriel

I move that the Board of Adjustment in **Appeal No. BDA 045-192**, on application of Allegro Management, Inc., **grant** the special exception to the fence regulations 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted and signed site plan and fence elevations dated May 17, 2005 is required.

SECONDED: Johnson

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0–,

MOTION PASSED: 5–0 (unanimously)

2:20 P.M. Break

2:42 P.M. Resumed

MOTION: Johnson

I move to adjourn this meeting.

SECONDED: Gabriel

AYES: 5 – White, Hill, Johnson, Gabriel, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

2:58 P.M. - Board Meeting adjourned for May 17, 2005.

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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