BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM
WEDNESDAY, APRIL 20, 2005

MEMBERS PRESENT AT BRIEFING:	Alice Cox, Vice-Chair, Taylor Brannon, regular member, Samuel Gillespie, regular member, Dovie Jaffe, alternate member and Linda Wise, alternate member
MEMBERS ABSENT FROM BRIEFING:	Kathleen Cope, regular member
MEMBERS PRESENT AT HEARING:	Alice Cox, Vice-Chair, Taylor Brannon, regular member, Samuel Gillespie, regular member, Dovie Jaffe, alternate member and Linda Wise, alternate member
MEMBERS ABSENT FROM HEARING:	Kathleen Cope, regular member,
STAFF PRESENT AT BRIEFING:	T.J. Okwubanego, Asst. City Attorney, Donnie Moore, Chief Planner, Steve Long, Board Administrator, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Michael Sultan, Chief Arborist and Trena Law, Board Secretary
STAFF PRESENT AT HEARING:	T.J. Okwubanego, Asst. City Attorney, Donnie Moore, Chief Planner, Steve Long, Board Administrator, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Michael Sultan, Chief Arborist and Trena Law, Board Secretary

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10:05 AM. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's April 20, 2005 docket.

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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.
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MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B March 16, 2005 hearing minutes.

MOTION: **Gillespie**

I move **approval** of the **Wednesday, March 16, 2005** Board of Adjustment Public Hearing minutes.

SECONDED: **Brannon**
AYES: 5–Cox, Brannon, Gillespie, Jaffe, Wise
NAYS: 0 - None
MOTION PASSED 5 – 0 (Unanimously)

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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 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).
- 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.

*** No action was taken on this item, however minor amendments were suggested by Panel B. These minor amendments, along with minor amendments suggested by Panel C on April 18th and agreed upon by Panel A on April 19th will be incorporated into the final draft that will be considered for adoption by the board in May of 2005.**

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FILE NUMBER: BDA 045-184

BUILDING OFFICIAL'S REPORT:

Application of Ronald J. and Susan Threadgill for a special exception to allow an additional dwelling unit at 17702 Hillcrest Road. This property is more fully described as Lot 20B in City Block J/8727 and is zoned R 7.5 (A) and PD 106 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: 17702 Hillcrest Road

APPLICANT: Ronald J. and Susan Threadgill

April 20, 2005 Public Hearing Notes:

- The Development Services Transportation Engineer discovered that the proposed additional dwelling unit shown on the submitted site plan did not comply with the off-street parking regulation which requires a 20' distance between an enclosed parking space and an alley right of way line. The applicant offered to be conditioned to an amended site plan that he would submit to staff that would show the structure to be located in compliance with all setback requirements.

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 2-story garage/"bonus room" 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 15,754 square feet in area and developed with, according to DCAD records, a single family home that is in excellent condition, built in 2002 with 3,222 square feet of living area.
- The site plan indicates that the additional "dwelling unit" structure has a building footprint of approximately 36' x 31' or is about 1,100 square feet in area.
- The site plan indicates that the additional "dwelling unit" structure will be located 6' from the nearest property line which in this case is the side property line on the east.
- The submitted elevation indicates that the 2-story additional "dwelling unit" structure will be approximately 23' in height.
- Floor plans indicate the following spaces within the proposed detached 2-story additional "dwelling unit" structure on the site:
  - a 3-car garage on 1st floor; and
  - a "bonus room," mechanical room, storage room, bath, and closet on the 2nd floor.
- 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 a petition signed by 13 people who support the request (see Attachment B).

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) & PD No. 106 (Single family district 7,500 square feet & Planned Development 106)
North: PD No. 106 (Planned Development District 106)
South: R-7.5(A)(SUP 865) (Single family district 7,500 square feet and Specific Use Permit 865)
East: PD No. 63-H (Planned Development District 63)
West: PD No. 106 (Planned Development District 106)

Land Use:

The subject site is developed with a single family home. The areas to the north and west are developed with single family uses; and the areas to the east and south are developed with an institutional use (The City of Dallas Police Substation).

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 7, 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.

March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 17, 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 March 28th 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 25, 2005 The applicant submitted information beyond what was submitted with the original application (see Attachment B).

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; 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 2-story "dwelling unit" structure meets all setback, lot coverage, and height regulations.
- The property immediately east and south of the proposed "dwelling unit" structure is an institutional use: The City of Dallas Northwest Police Substation.
- If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and revised site plan, the "dwelling unit" structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 2-story garage/"bonus room" structure.
- As of April 7, 2005, no letters in opposition to this request had been submitted to staff, and one petition had been submitted signed by 13 neighbors who support the request.

- 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 2-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: **April 20, 2005**

APPEARING IN FAVOR: Ronald J. Threadgil, P.O. Box 832087, Richardson, TX

APPEARING IN OPPOSITION: No one

MOTION: **Wise**

I move that the Board of Adjustment in Appeal **No. BDA 045-184** on application of Ronald J. and Susan Threadgill, **grant** the request of this applicant to maintain an additional dwelling unit on the property**,** because our evaluation of the property and testimony shows that the additional dwelling unit will not be used as rental accommodations nor adversely affect neighboring properties. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted elevation and a revised site plan that relocates all structures out of the required setbacks is required; and
- The property must be deed restricted to prohibit the additional dwelling unit on the site from being used as rental accommodations.
- A copy of the deed restrictions recorded in Dallas County must be submitted to the City Attorney's office.

SECONDED: **Jaffe**
AYES: 5–Cox, Brannon, Gillespie, Jaffe, Wise
NAYS: 0 –
MOTION PASSED - 5 – 0 (Unanimously)
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FILE NUMBER: BDA 045-172

BUILDING OFFICIAL'S REPORT:

Application of Baxter W. Banowsky for a special exception to the fence regulations at 4610 Royal Lane. This property is more fully described as Lot 1 in City Block b/5534 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 11 foot fence in the required front yard setback which would require a special exception of 7 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: 4610 Royal Lane

APPLICANT: Baxter W. Banowsky

REQUEST:

A special exception to the fence height regulations of 7' is requested in conjunction with constructing a wall in the 40'-Royal 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 site is located at the corner of Royal Lane and Welch Road. The site has one front yard setback along Royal Lane.
- The originally submitted elevation plan made the following notations:
  - "Wall is 7' above sloped grade"
  - "12" concrete block wall with stucco finish"
  - "Landscaping between curb and wall"
- The originally submitted site plan that indicated the following:
  - the proposed wall would be approximately 195' in length; and
  - the proposed wall would be located on the site's Royal Lane front property line or about 13 from the Royal Lane pavement line.
- The originally submitted site plan indicated that the proposed wall would run parallel to Royal Lane with four recessed areas that would allow spaces for unspecified landscape materials.
- The proposed wall is located on a site where two single family homes have direct/indirect frontage.
- The Board Administrator conducted a field visit of the site and surrounding area (an area approximately 500' east and west of the site along Royal Lane) and noted one fence above four (4) feet high which appeared to be located in the front yard setback (Note that dimensions are approximations):
  - An open wrought iron fence approximately 5.5' high located two lots east of the site (see the "Zoning/BDA History" of this case report for further details).
- On March 25, 2005, the applicant submitted additional materials beyond what was submitted with the original application (see Attachment A). The information included the following:
  - A document that provides further details about the request and reasons why the request should be granted;

- A revised elevation plan that amends the originally submitted elevation by detailing landscape materials with the following notations:
  - Landscaped/irrigated areas to include Asian Jasmine or similar groundcover, Boston Ivy or similar variety vine to cover wall, and Crape Myrtle or similar trees;
  - Six (6) Crape Myrtle – Lagerstroemia indica or similar species – 65 gallon, Landscaping between curb and wall
  - Landscaping between curb and wall
- A revised site plan that amends the originally submitted site plan by adding the following notation: "Landscaped/irrigated areas to include Asian Jasmine or similar groundcover, Boston Ivy or similar variety vine to cover wall, and Crape Myrtle or similar trees."
- A series of exhibits including a mockup photograph of the subject property with the proposed wall and landscape materials, photographs of other fences in the area, details of the heights of these fences, and a map that indicates where the fences are located.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 94-126, 10757 Lennox Lane (two lots immediately east of the subject site)	On October 25, 1994, the Board of Adjustment granted a request for a special exception to the fence height regulations to maintain a 7' fence on this site with the following conditions: a minimum of 10 feet from the property line; the fence must be constructed of an acceptable open metal material and the fence portion must not exceed 6' in height; columns of metal or solid materials not exceeding 7' in height; and a landscape plan approved by the Board (landscaping in front of the fence between the fence and the property line). (It appears that this fence was never built given that a

	subsequent fence height special exception request followed this application four years later in 1998).
2. BDA 978-231, 10757 Lennox Lane (two lots east of the subject site)	On October 19, 1998, the Board of Adjustment Panel C denied special exception requests to the fence height regulations of 4' and to the visibility obstruction regulations with prejudice. The case report indicated that these requests were made in conjunction with constructing and maintaining an 8' high solid masonry wall in the Royal Lane front yard setback and in the 45' visibility triangle at the intersection of Royal Lane and Lennox Lane. (The Board Administrator conducted a field visit in March of 2005 related to BDA 045-172 and noted that there appears to be an approximately 5.5'-high fence in the Royal Lane front yard setback on the site).

Timeline:

February 24, 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.

March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 17, 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 March 28th 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

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

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed wall relative to its proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- An elevation has been submitted that documents the height of the proposed wall (7' above slope grade), and the building materials of the wall (12" concrete block with stucco finish).
- The proposed wall is to be constructed of durable material, and to be screened with landscape materials specified on the submitted revised site plan and elevation.
- Only one fence in a front yard setback above 4' in height was noted in the immediately adjacent area: an approximately 5.5'-high open wrought iron fence located 2 lots east of the site.
- As of April 5th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 7' with conditions imposed that the applicant complies with the submitted revised site plan and submitted revised elevation would assure that the proposed wall is constructed and maintained as shown on the plan and elevation.
- Although the height of the wall would be mostly 7'-high, Building Inspection determined that a 7' fence height special exception was required given the grade change on the site where the wall would reach up to 11' in height measured from the site's unaltered grade.

BOARD OF ADJUSTMENT ACTION: **April 20, 2005**

APPEARING IN FAVOR: Baxter Banowsky, 4610 Royal Lane, Dallas, TX

APPEARING IN OPPOSITION: Sherrill Stone, 4625 Royal Lane, Dallas, TX

MOTION#1: **Jaffe**

I move that the Board of Adjustment in Appeal No. **BDA 045-172**, hold this matter under advisement until **May 18, 2005**.
SECONDED: No one
AYES: 0
NAYS: 0 –
MOTION FAILED –
***There was no second to this motion.**

MOTION#2: **Wise**

I move that the Board of Adjustment in Appeal No. **BDA 045-172,** on application of Baxter W. Banowsky, **grant** the request to erect an 11 foot fence from unaltered grade, 7 foot fence from unaltered grade on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

***A second to this motion was not called. The motion was not completed and was withdrawn by Ms. Wise.**

MOTION#3: **Jaffe**

I move that the Board of Adjustment in Appeal No. **BDA 045-172**, hold this matter under advisement until **May 18, 2005**.

SECONDED: **Wise**
AYES: 5–Cox, Brannon, Gillespie, Jaffe, Wise
NAYS: 0 –
MOTION PASSED – (Unanimously)
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FILE NUMBER: BDA 045-173

BUILDING OFFICIAL'S REPORT:

Application of Imran Afridi, represented by Edward Brussel for a special exception to the fence regulations at 6300 Spring Valley Road (aka 6330 Spring Valley Road). This property is more fully described as Lot 7 in City Block 5/7418 and is zoned R-16 (A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9 foot 6 inch fence in the required front yard setback which would require a special exception of 5 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: 6300 Spring Valley Road (aka 6330 Spring Valley Road)

APPLICANT: Imran Afridi
Represented by Edward Brussel

REQUEST:

A special exception to the fence height regulations of 5' 6" is requested in conjunction with constructing a wall and gate in the 35'-Spring Valley Road front yard setback on a site being 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 elevation plan indicates the following:
  - A 7' 6" –high "brick screen wall" with 8'-high columns
  - A 9' 6"-high arched entry gate
- The submitted site plan indicates the following:
  - the proposed wall would be approximately 195' in length; and
  - the proposed wall would be located approximately 1' from the site's Spring Valley Road front property line or about 8.5' from the Spring Valley Road pavement line.
- The submitted site plan indicates that the proposed wall would run parallel to Spring Valley Road with a recessed entryway.
- The entryway/gate would be located about 16' from the site's Spring Valley front property line or about 24' from the projected street curb.
- The applicant's representative stated in a letter that "we are willing to plant vines or other landscape in front of our wall," however, but neither a landscape plan nor a site plan with any specified landscape materials to be located adjacent to the wall has been submitted to staff.
- The proposed wall is to be located on a site where one single family home with no fence has direct frontage.
- The proposed wall is to replace an approximately 6'-high open wrought iron fence.
- The Board Administrator conducted a field visit of the site and surrounding area (an area approximately 500' east and west of the site along Spring Valley Road) and noted no other fences above four (4) feet high which appeared to be located in the front yard setback. However the administrator noted an approximately 9'-high solid board fence immediately west of the site and an approximately 9'-high solid masonry wall northwest of the site both of which are most likely allowed by right since the lots on which these fences/walls are located "front" Hughes Lane with their Spring Valley

Road "frontage" actually deemed side yards where 9'-high fences are permitted by right.

- On March 28, 2005, 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 revised site/elevation plan that indicates the height and features of the proposed gate (Note that this elevation makes the following notation on the proposed gate: "Exact design of gate subject to change.")

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-16 (A) (Single family district 16,000 square feet)
East:	R-16 (A) (Single family district 16,000 square feet)
West:	R-16 (A) (Single family district 16,000 square feet)

Land Use:

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

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:

February 24, 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.

March 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 22, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the requests;

- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 28th deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 25, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed wall relative to its proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed wall relative to the lot.
- An elevation has been submitted that documents the height of the proposed wall and columns (7' 6" and 8', respectively), and the building materials of the wall (brick). (A gate elevation is shown on the site plan/elevation where the gate is dimensioned to be a maximum height of 9' 6" with an additional note stating the exact design of the gate is subject to change).
- The proposed wall is to be constructed of a durable material however there has been no specific documentation of any landscape/screening materials to be planted on the site in conjunction with the request. (The applicant's representative has offered in a letter to plant vines or other landscape materials in front of the wall).
- No other fences/walls in a front yard setback above 4' in height were noted in the immediately adjacent area.

- As of April 8th, no letters had been submitted to staff either in support or in opposition to the proposed wall.
- Granting this special exception of 5' 6" with conditions imposed that the applicant complies with the submitted revised site plan/elevation would assure that the proposed wall is constructed and maintained as shown on the submitted revised site plan/elevation.

BOARD OF ADJUSTMENT ACTION: **April 20, 2005**

APPEARING IN FAVOR: Edward Brussel, 3413 Brushy Creek Dr., Plano, TX
Imran Afridi, 7726 Cedar Elm Dr., Irving, TX

APPEARING IN OPPOSITION: No one

MOTION#1: **Gillespie**

I move that the Board of Adjustment, in Appeal No. **BDA 045-173,** on application of Imran Afridi, **grant** the request to maintain a 7 foot 6 inch fence with a 9 foot wrought iron gate on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Wise**
AYES: 4- Cox, Gillespie, Jaffe, Wise
NAYS: 1 – Brannon,
MOTION PASSED - 4 –1

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FILE NUMBER: BDA 045-181

BUILDING OFFICIAL'S REPORT:

Application of M.T. Akhavizadeh for a special exception to the fence regulations at 5831 Desco Drive. This property is more fully described as Lots 4, 5 and part of 3 and 6 in City Block F/5614 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 a 6 foot 6 inch fence in the required front yard setback which would require a special exception of 2 feet 6 inches. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5831 Desco Drive

APPLICANT: M.T. Akhavizadeh

April 20, 2005 Public Hearing Notes:

- The applicant offered to reduce the height of the fence in the Desco Drive front yard setback to 4' whereby the only item to be "excepted" by the board would be the proposed gate and entry columns in the Desco Drive front yard setback.

REQUEST:

- A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing a 6' 6"-high open metal tube fence with 6' 6"-high columns, and a 6' 6"-high open iron tube entry gate in the 40'-Desco Drive front yard setback on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The approximately 1.3-acre subject site is located near the middle of the 5800 block of Desco Drive and Watson Avenue. The rectangular-shaped site/lot has two, 40'-front yard setbacks since the site is a full "block-deep" (or about 330' in depth) with its northern edge along Watson Avenue and its southern edge along Desco Drive.
- Although the applicant informed the Board Administrator upon his inquiry that he would submit plans for a Watson Avenue fence proposal by March 28th, no fence elevation or site plan has been submitted to construct a fence higher than 4' in height in the 40'-Watson Avenue front yard setback. As a result, this fence height special exception appeal is for the board to consider a fence to exceed 4' in height in only one of the site's two 40'-front yard setbacks: Desco Drive.
- The submitted Desco Drive site plan makes the following notations:
  - The proposed fence to be located parallel to Desco Drive with a recessed entryway;
  - The proposed fence to be approximately 180 feet long;
  - The proposed fence being located 4' 6" from the property line and approximately 17.5' from the Desco Drive pavement line; and
  - The proposed gate being located 11' from the property line and approximately 29' from the projected Desco Drive pavement line.
- The submitted Desco Drive elevation plan makes the following notations:

- A 6’ 6”-high “2” SQ TUBING” open metal fence;
- 6’ 6”-high columns; and
- A maximum 6’ 6”-high inverted arched entry gate comprised of the same type of “tubing” as the fence, and 2 ¼” molding cap.”

- 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 Desco Drive would be located on a site where one single family home would have direct frontage to the proposed fence, and one home would have indirect frontage. (Neither of these homes have fences).
- The Board Administrator conducted a field visit of the site and surrounding area along Desco Drive (from Douglas Avenue to Preston Road) 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 partial approximately 15’-long, 8’-high brick wall, and an entryway feature located at the southeast corner of Douglas and Desco with 8’-high entry columns (with decorative lamps atop) and 6.5’-high open wrought iron gates.
  - An entryway feature with 6.5’-high entry columns and a 6’-high open wrought iron gate located immediately east of the site.
  - An entryway feature with 9’-high columns (including decorative lamps) with 9’-high gates located about one lot east of the site.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site has been recently 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 045-131, 5831 Desco Drive (the subject site)	On February 16, 2005, the Board of Adjustment Panel B denied requests for special exceptions to the fence height regulations of 2’ without prejudice. The case report states that requests were made to construct a 6’-high open metal tube fence with 6’-high columns and a 6’-high gate in the 40’-Desco Drive front yard setback, and a 6’-high cyclone fence in the 40’-Watson Drive front yard setback.

Timeline:

March 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.

March 17, 2005: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."

March 17, 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 March 28th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket (which in this case would include any plans and elevations he may want to submit regarding a fence that would exceed 4' in height and be located in the Watson Avenue front yard setback);
- 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed Desco Drive 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' 6"), columns (6' 6"), and gate (6' 6"), and the building materials of the fence and gate (open metal tubing).
- The proposed fence is to be constructed of durable material.
- The proposed fence would be located immediately across from single family homes with no fences in their front yard setbacks.
- As of April 8th, no letters had been submitted to staff either in support or in opposition to the proposed fence.
- Granting this special exception of 2' 6" with conditions imposed that the applicant complies with the submitted Desco Drive site plan/fence elevation would assure that the proposed fence is constructed and maintained as shown on this document.
- Granting this request would not allow any fence higher than 4' to be located in the site's Watson Avenue front yard setback.

BOARD OF ADJUSTMENT ACTION: **April 20, 2005**

APPEARING IN FAVOR: MT Akhavizaheh, 12225 Greenville Ave., Dallas, TX
Ralph Henderson, 5830 Desco, Dallas, TX

APPEARING IN OPPOSITION: David Klineman, 6416 Preston Crest, Dallas, TX

MOTION: **Gillespie**

I move that the Board of Adjustment, in Appeal No. **BDA 045-181,** on application of M.T. Akhavizadeh, **grant** the request to maintain a 4 foot fence with a 4 foot columns and a 6 foot 6 inch gate with two, 6 foot 6 inch columns on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with a revised submitted site plan and elevation to be submitted to the Board Administrator indicating the fence, column and gate dimensions specified above is required.

SECONDED: **Brannon**
AYES: 5–Cox, Brannon, Gillespie, Cope, Jaffe
NAYS: 0 –
MOTION PASSED - 5 – 0 (Unanimously)

***3:15 PM: Dovie Jaffe excused from the hearing.**

****

FILE NUMBER: BDA 045-188

BUILDING OFFICIAL'S REPORT:

Application of James B. Reeder represented by Masterplan for a special exception to the off street parking regulations 3028 and 3032 Bryan Street. This property is more fully described as a tract of land in City Block 500 and is zoned P.D.298 which requires parking to be provided for additions. The applicant proposes to construct an addition for a multi-family use and provide 66 of the 76 required parking spaces which would require a special exception of 10 spaces. 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: 3028 and 3032 Bryan Street

APPLICANT: James B. Reeder
Represented by Masterplan

REQUEST:

- A special exception to the off-street parking regulations is requested in conjunction with providing 66 (or 87%) of the 76 off-street parking spaces required on a site proposed to be developed with a 4-story, 38-unit multifamily structure. The site is currently developed with a 2-story vacant office structure. (Two floors will be added to the existing building in addition to expansions to the south and west of the existing building).

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

1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus

the number of parking spaces currently not provided due to already existing nonconforming rights.

2) In determining whether to grant a special exception, the board shall consider the following factors:
   (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
   (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
   (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
   (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
   (E) The availability of public transit and the likelihood of its use.
   (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
4) In granting a special exception, the board may:
   (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
   (B) impose restrictions on access to or from the subject property; or
   (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
   (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
   (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The PD No. 298 zoning district requires that 2 off-street parking spaces are provided per unit.
- 76 off-street parking spaces are required on the site since the applicant intends to develop the site with a 38-unit multifamily structure. Although the applicant contends that 76 spaces will be provided on the site, 10 of these required 76 spaces are to be provided through a vertical stacked parking space method. The City does not recognize the stacked parking spaces as spaces that can fulfill the off-street parking requirement, hence the special exception request of 10 parking spaces.

- Building Inspection recognizes 66 of the 76 required spaces that are to be provided on the site whereby 1.7 parking spaces would be provided for each of the proposed 38 units.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 298 (Planned Development District 298)
North: PD No. 298 (Planned Development District 298)
South: PD No. 298 (Planned Development District 298)
East: PD No. 298 (Planned Development District 298)
West: PD No. 298 (Planned Development District 298)

Land Use:

The subject site is developed with a vacant, 2-story office building. The areas to the north and east are developed with single family residential uses; the area to the south is developed with surface parking and warehouse uses; and the area to the west is a mix of undeveloped land and multifamily uses.

Zoning/BDA History:

1. BDA 045-115, 3028 and 3032 Bryan Street (the subject site)	On January 19, 2005, the Board of Adjustment Panel B took the following actions on a request to develop a 4-story, 38-unit multifamily structure: 1) granted a special exception request of 12' for a 62'-high elevator penthouse to afford a handicapped person equal opportunity to use and enjoy a dwelling (subject to a site plan and revised elevation to be submitted to the Board Administrator, and a condition that the special exception is valid for as long as the structure is needed to afford a handicapped person equal opportunity to use and enjoy a dwelling); 2) granted a variance request of 4' for a 54'-high rooftop railing and roof pitch (subject to the submitted site plan and elevation); and 3) denied a parking special exception request of 11 spaces with prejudice. (On February 16, 2005, the Board of Adjustment Panel B granted a request to waive the 2-year time limit on the parking special exception request that was denied with prejudice).
2. BDA 023-144, 3015 Bryan Street	On November 17, 2003, the Board of

(the lot immediately west of the subject site)	Adjustment Panel B followed the staff recommendation and denied a request for a special exception to the off-street parking regulations of 36 spaces (or 25% of the total parking required) without prejudice. The special exception was requested in conjunction with constructing 72-unit, 90-bedroom condominium that required 144 off-street parking spaces.

Timeline:

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

March 22, 2005: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."

March 22, 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 March 28th 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Development Services Department Current Planning Division

Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

A review comment sheet was submitted by the Development Services Transportation Engineer in conjunction with this application. The engineer commented that he has no objections to the special exception request stating that "the special exception request of 10 parking spaces or 13% appears reasonable."

STAFF ANALYSIS:

- 87 percent of the required off-street parking spaces are proposed to be provided in conjunction with developing a 38-unit multifamily structure on the site.
- The applicant proposes to provide 76 parking spaces on the site, 10 of which the applicant proposes to provide through a vertical parking stacking device method. The City does not recognize the 10 vertically-stacked spaces as "off-street parking spaces" that would qualify in fulfilling the off-street parking requirement.
- Granting this request, subject to the condition that the special exception automatically and immediately terminates if and when the multifamily use on the site is changed or discontinued, would allow the site to be developed with a 38-unit multifamily structure with 10 parking spaces less than what is required.
- The Development Services Transportation Engineer has indicated that he has no objections to the 13% special exception request stating that "the special exception request of 10 parking spaces or 13% appears reasonable."

BOARD OF ADJUSTMENT ACTION: **April 20, 2005**

APPEARING IN FAVOR: William Cothrum, 900 Jackson St., Suite 640, Dallas, TX
Larry Maulden, 104 Rosemont Place, Joshua, TX
John Webber, 1311 Birkenhead Ct., Dallas, TX
James Reeder, 1925 Cedar Springs, Dallas, TX
Bill Boruff, 1319 Birkenhead Ct., Dallas, TX

APPEARING IN OPPOSITION: Robert Clinesmith, 402 E Cowan St., Dallas, TX

MOTION: **Brannon**

I move that the Board of Adjustment in Appeal **No. BDA 045-188,** on application of James B. Reeder, **grant** the request of this applicant to reduce the number of required off-street parking spaces in the Dallas Development Code by **10** parking spaces, because our evaluation of the property and the testimony shows that the parking demand generated by the multifamily use on the site do not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard nor increase traffic congestion on adjacent and nearby streets. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception shall automatically and immediately terminate if and when the multifamily use on the site is changed or discontinued.

SECONDED: **Gillespie**
AYES: 4–Cox, Brannon, Gillespie, Wise
NAYS: 0 –
MOTION PASSED - 4 – 0 (Unanimously)
****

FILE NUMBER: BDA 045-159

BUILDING OFFICIAL'S REPORT:

Application of Little Heroes Baseball Foundation, represented by David Taylor and Angela Turf, for a special exception to the landscape regulations at 2807 Harry Hines Blvd. This property is more fully described as Lots 3 and 4 in City Block 927 and is zoned PD 193 (MF-2 Subdistrict, H-96) which requires landscaping to be provided with new construction. The applicant proposes to re-construct a park facility and provide an alternate landscape plan which would require a special exception to the landscape regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 2807 Harry Hines Blvd

APPLICANT: Little Heroes Baseball Foundation
Represented by David Taylor and Angela Turf

April 20, 2005 Public Hearing Notes:

- The applicant submitted a letter and a revised landscape plan to the Board – a plan the applicant stated was resulted from meetings he had had with opposing property owners.

REQUEST:

- A special exception to the landscape regulations is requested/triggered in conjunction with reconstructing an existing baseball field with bleachers, restrooms and concession facilities on a site developed as a park (Pike Park Plaza).

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 finding 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 new construction.
- 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 sidewalk and street tree requirements along Harry Hines Boulevard, and the designated planting area requirement.
- The City of Dallas Chief Arborist identified the following ways in which the alternate landscape plan does not comply with the landscape regulations:
  - The applicant is required to provide a 4'-wide sidewalk between 5' and 10' from the back of curb.
    The applicant is *proposing* to retain a 3.5'-wide sidewalk located between 3' – 7' from the back of curb.
  - The applicant is required to provide one street tree for every 25' of street frontage (which in this case would be 20 trees)
    The applicant is *proposing* to retain five mature Live Oak trees and states that the existing sidewalk and retaining wall preclude their ability to plant new trees in the required location.
  - The applicant is required to maintain 17,500 square feet of the site as general planting area (an area that must contain living trees, shrubs, vines or groundcover).
    The applicant is *proposing* to maintain the 4,020 square feet that exists and to add 4,920 square feet of additional materials along the east side of the property (480 linear feet) and vines on the outfield wall (500 linear feet).
- The City of Dallas Chief Arborist identified the following "Factors for Consideration:"
  - The requested relief from the sidewalk requirements is due to a desire to maintain an existing sidewalk due to the need to remove and replace an existing retaining wall if the sidewalk were to be removed.
  - The request to not plant additional street trees is self-explanatory.
  - The deficiency of the general planting area is due to the desire to utilize as much of the property for open playing fields.
- On March 16, 2005, the Board of Adjustment conducted a public hearing on this matter and delayed action on this application until April 20, 2005. The board encouraged the applicant to meet with those who had expressed opposition to the application prior to the April hearing.
- On March 23, 2005, a Senior Park Planner from the City's Park and Recreation Department submitted information to the Board Administrator (see Attachment B). This information included the following:
  - A copy of the ordinance that created the Historic District Overlay District in which the site is located.
  - A memo that explains how full compliance with PD 193 landscape standards (as it pertains to the sidewalk and street tree location) would necessitate the removal and reconstruction of the existing retaining wall on the site that the historic overlay district ordinance states "must be maintained."

BACKGROUND INFORMATION:

Zoning:

Site:	PD No. 193 (MF-2 Subdistrict, H/96) (Planned Development District, Multifamily, Historic)
North:	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
South:	PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
East:	PD No. 193 (I-2 Subdistrict) (Planned Development District, Industrial)
West:	PD No. 193 (MF-2 Subdistrict, H/64) (Planned Development District, Multifamily, Historic)

Land Use:
The approximately 4 acre subject site is a park (Pike Park Plaza) The areas to the north and west are developed with residential uses; the area to the east is developed with office uses; and the area to the south is developed as parking uses.

Zoning/BDA History:

1. BDA 012-143, 2722-2728 Akard and 2721-2727 Harry Hines Boulevard (the lot immediately south of the subject site)	On August 27, 2002, the Board of Adjustment Panel A followed the staff recommendation and granted an appeal for a landscape special exception requested in conjunction with developing a surface parking lot on a site that was undeveloped. The board imposed a condition whereby the applicant had to fully comply with the submitted revised landscape plan.

Timeline:

January 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.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 18, 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 February 25th deadline to submit additional evidence for staff to factor into their analysis;

- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

Although no review comments sheets (with comments) were submitted in conjunction with this application, the City of Dallas Chief Arborist submitted a memo regarding this appeal (see Attachment A).

STAFF ANALYSIS:

- The submitted landscape plan is deficient from fully complying with the landscape regulations of PD No. 193 primarily on the eastern side of the site along Harry Hines Boulevard.
- Granting this request (subject to a condition that the applicant complies with the submitted landscape plan) will result in allowing the site to deviate from the PD No. 193 landscape regulations in the following three ways:
  - the applicant could retain the existing sidewalk (and retaining wall) along Harry Hines Boulevard that is 0.5' narrower than what is required, and located between 2' – 3' closer to the street than what is required;
  - the applicant would be allowed to maintain 5 mature street trees along Harry Hines Boulevard when 20 new street trees would be required; and
  - the applicant would be allowed to only provide a total of 8,940 square feet of planting area when 17,500 square feet of planting area is required.
- As of April 7, 2005, no additional information had been submitted to staff from the applicant.

BOARD OF ADJUSTMENT ACTION: **March 16, 2005**

APPEARING IN FAVOR: David Taylor, 3424 Hilltop Road, Ft. Worth, TX 76109
David Strueber, 3631 Ingleside, Dallas, TX

APPEARING IN OPPOSITION: Bennett Miller, 5709 Over Downes, Dallas, TX
David Demarest, 2903 Magnolia Hill Ct., Dallas, TX

Horaito Lonsdale-Hands, 2919 Magnolia Hill Ct., Dallas, TX
Roxane Rose, 2951 Magnolia Hill Ct., Dallas, TX
Ken Rose, 2951 Magnolia Hill Ct., Dallas, TX
Doug Unger, 2975 Magnolia Hill Ct., Dallas, TX

MOTION#1: **Jaffe**

I move that the Board of Adjustment in **Appeal No. BDA 045-159,** on application of Little Heros Baseball Foundation, **deny** the relief requested by this applicant **without prejudice,** because our evaluation of the property and testimony shows that granting the application would compromise the spirit and intent of Section 26 of Ordinance Number 21859.

SECONDED: **Cope**
AYES: 2–Jaffe, Cope
NAYS: 3 – Cox, Brannon, Gillespie
MOTION FAILED - 2 – 3

MOTION#2: **Brannon**

I move that the Board of Adjustment in **Appeal No. BDA 045-159,** hold this matter under advisement until **April 20, 2005**.

SECONDED: **Gillespie**
AYES: 4– Cox, Brannon, Gillespie, Cope
NAYS: 1 – Jaffe
MOTION PASSED - 4 –1

BOARD OF ADJUSTMENT ACTION: **April 20, 2005**

APPEARING IN FAVOR: Charlie McKinney, 3820 Greenbriar, Dallas, TX
David Demarest, 2903 Magnolia Hill CT., Dallas, TX

APPEARING FOR THE CITY: Michael Hellman, Park & Rec Dept, 1500 Marilla, Dallas, TX

APPEARING IN OPPOSITION: Roxane Rose, 2951 Magnolia Hill Ct., Dallas, TX

MOTION: **Wise**

I move that the Board of Adjustment in Appeal **No. BDA 045-159,** on application of Little Heroes Baseball Foundation, **grant** the request of this applicant to provide an alternate landscape plan as a special exception to the landscaping requirements in Ordinance Number 21859 because our evaluation of the property and testimony shows that this special exception will not compromise the spirit and intent of Section 26 of that ordinance. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised landscape plan is required.

SECONDED: **Brannon**
AYES: 4–Cox, Brannon, Gillespie, Wise
NAYS: 0 –
MOTION PASSED - 4 – 0 (Unanimously)
****

MOTION: **Brannon**

I move to adjourn this meeting.

SECONDED: **Wise**
AYES: 4 – Cox, Brannon, Gillespie, Wise
NAYS: 0 - None
MOTION PASSED: 5– 0 (Unanimously)

4:35 P.M. - Board Meeting adjourned for April 20, 2005.

_____
CHAIRPERSON

_____
BOARD ADMINISTRATOR

_____
BOARD SECRETARY

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