

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN AUDITORIUM  
MONDAY, MARCH 17, 2014**

MEMBERS PRESENT AT BRIEFING: Ross Colter, Acting Vice Chair, Joe Carreon regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Ross Coulter, regular member, Joe Carreon, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Laura Morrison, Asst. City Attorney, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Ali Hatefi, Engineer, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Laura Morrison, Asst. City Attorney, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Ali Hatefi, Engineer, Neva Dean, Interim Asst. Director, and Trena Law, Board Secretary

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**11:15 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 20, 2014** docket.  
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**1:02 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 C February 20, 2014 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 20, 2014**

**MOTION:** Schulte

I move **approval** of the Monday, February 20, 2014 public hearing minutes.

**SECONDED:** Carreon

**AYES:** 5– Richardson, Coulter, Carreon, Schulte, Beikman

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 134-018

**BUILDING OFFICIAL’S REPORT:** Application of Lou Olerio, represented by Steven Wood, for a special exception to the fence height regulations at 6506 Robin Road. This property is more fully described as Lot 7B, Block 3/4916, 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/maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 6506 Robin Road

**APPLICANT:** Lou Olerio  
Represented by Steven Wood

**REQUEST:**

A special exception to the fence height regulations of 4’ is requested to replace an existing approximately 6’ high wood fence with a proposed 7’ high solid wood fence with 8’ high brick columns in the one of the site’s two 30’ front yard setbacks (Mockingbird Lane) on a site that is 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.

**STAFF RECOMMENDATION:**

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: R-10(A) (Single family district 10,000 square feet)  
North: R-10(A) (Single family district 10,000 square feet)  
South: R-7.5(A) (Single family district 7,500 square feet)  
East: R-10(A) (Single family district 10,000 square feet)  
West: R-7.5(A) (Single family district 7,500 square feet)

### **Land Use:**

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

### **Zoning/BDA History:**

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

### **Timeline:**

December 23, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 17, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 17, 2014: The Board Administrator shared the following information with the applicant's representative via email:

- an attachment that provided the public hearing date and panel that will consider the application; the January 29th deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 3, 2014: The Board Administrator emailed the applicant's representative that this application would not be scheduled for Panel C's February 20<sup>th</sup> docket as tentatively scheduled given that staff had determined the application to be incomplete, and would be scheduled for the

next available hearing date once he had submitted an accurate “to-scale” site plan and “to-scale” elevation to the Building Inspection Senior Plans Examiner/Development Code Specialist.

February 11, 2014: The applicant’s representative and the Building Inspection Senior Plans Examiner/Development Code Specialist submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 13, 2014: The Board Administrator shared the following information with the applicant’s representative via email:

- an attachment that provided the public hearing date and panel that will consider the application; the February 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

March 4, 2014: 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 Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on replacing an existing approximately 6’ high wood fence with a proposed 7’ high solid wood fence with 8’ high brick columns in the one of the site’s two 30’ front yard setbacks (Mockingbird Lane) on a site that is developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- The site is located at the northeast corner of Mockingbird Lane and Robin Road. The site has a 30’ front yard setback along Mockingbird Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-

family zoning district. The site also has a 30' front yard setback along Robin Road, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence is allowed by right. But the site's Robin Road frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes north of the site that front/are oriented westward towards Robin Road. Regardless of how the home is oriented to front onto Robin Road (and "side" to Mockingbird Lane), the site has two 30' front yard setbacks where the focus of the applicant's request in this application is only to replace and maintain a fence higher than 4' in the site's front yard setback on Mockingbird Lane. No part of the application is made to address any fence in the site's Robin Road front yard setback.

- The applicant has submitted a revised site plan and revised elevation of the proposal in the front yard setback with notations indicating that the fence reaches a maximum height of 8' which in this case is the height of the proposed brick columns.
- The following additional information was gleaned from the submitted revised site plan:
  - The proposed fence that would replace the existing fence in the front yard setback is represented as being approximately 145 in length parallel to the Mockingbird Lane.
  - The proposal is represented as being located on the Mockingbird Lane front property line or about 17' from the Mockingbird Lane pavement line.
- The proposal is located across from two single family homes neither of which have a fences in their front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of March 10, 2014, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: APRIL 21, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITON: No one

**MOTION: Beikman**

I move that the Board of Adjustment grant application **BDA 134-028** 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/elevation is required.

**SECONDED: Schulte**

**AYES:** 5– Richardson, Coulter, Carreon, Schulte, Beikman

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 134-023

**BUILDING OFFICIAL’S REPORT:** Application of L. Bradley Camp III for special exceptions to the visual obstruction regulations at 5203 Stoneleigh Avenue. This property is more fully described as Lot 1, Block H/2337 and is zoned PD-193 (R-7.5), which requires a 20 foot visibility triangle at driveway approaches and alleys where they intersect with a street. The applicant proposes to construct/maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 5203 Stoneleigh Avenue

**APPLICANT:** L. Bradley Camp III

**REQUESTS:**

Special exceptions to the visual obstruction regulations are made to maintain an 8’ high solid wood fence in the following locations on a site developed with a single family home:

1. in the two, 20’ visibility triangles on either side of the driveway into the site from Crestview Drive; and
2. in the 20’ visibility triangle at where the alley on the southwest side of the site meets Crestview Drive.

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has no objections to these requests.
- The applicant has substantiated how the location of the fence located in the 20' visibility triangles at the driveway into the site from Crestview Drive and at where the alley meets Crestview Drive does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (R-7.5) (Planned Development, Single family)  
North: PD 193 (R-7.5) (Planned Development, Single family)  
South: PD 193 (R-7.5) (Planned Development, Single family)  
East: PD 193 (R-7.5) (Planned Development, Single family)  
West: PD 193 (R-7.5) (Planned Development, Single family)

**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 123-018, Property at 5127 Stoneleigh Avenue (the property immediately southeast of the subject site) On March 18, 2013, the Board of Adjustment Panel C granted requests for special exceptions to the visual obstruction regulations and imposed the submitted site plan and elevation as a condition to these requests. The case report stated that the requests were made to maintain an 8' high solid board-on-board fence and sliding gate located in the two 20' visibility triangles on either side of the driveway into the site from Crestview Drive on property developed with a single family home.

**Timeline:**

January 20, 2014: 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 13, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 13, 2014: The Board Administrator shared the following information with the applicant via email:

- an attachment that provided the public hearing date and panel that will consider the application; the February 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

March 4, 2014: 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 Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

March 6, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."

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

- These requests focus on maintaining an existing 8' high solid wood fence in the two, 20' visibility triangles on either side of the driveway into the site from Crestview Drive; and in the 20' visibility triangle at where the alley on the southwest side of the site meets Crestview Drive on a site developed with a single family home.
- The Dallas Development Code states the following: 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 street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight 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).
- PD 193 defines "visibility triangle" as
  1. where a street designated on the city's thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no



- street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
2. where two streets not designated on the city's thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
  3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of a fence and sliding gate located in the two 20' visibility triangles on either side of the driveway into the site from Crestview Drive and in the 20' visibility triangle at where the alley on the southwest side of the site meets Crestview Drive.
  - The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."
  - The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of an existing 8' high solid wood fence located in the two 20' visibility triangles at the driveway into the site from Crestview Drive and in the 20' visibility triangle at where the alley on the southwest side of the site meets Crestview Drive does not constitute a traffic hazard.
  - Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20' drive approach visibility triangles into the site from Crestview Drive and in the 20' visibility triangle at where the alley on the southwest side of the site meets Crestview Drive to that what is shown on these documents – an 8' high solid wood fence.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 20, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITON: No one

**MOTION: Schulte**

I move that the Board of Adjustment grant application **BDA 134-023** 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.

**SECONDED:** Beikman

**AYES:** 5– Richardson, Coulter, Carreon, Schulte, Beikman

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 134-025

**BUILDING OFFICIAL’S REPORT:** Application of Winfred Tubbs for a special exception to the fence height regulations at 10814 Crooked Creek Drive. This property is more fully described as Lot 1, Block E/5503 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/maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations.

**LOCATION:** 10814 Crooked Creek Drive

**APPLICANT:** Winfred Tubbs

**REQUEST:**

A special exception to the fence height regulations of 4’ is requested in conjunction with constructing and maintaining a board-on-board cedar fence ranging from 7’ – 9’ in height in the one of the site’s two required front yards (Royal Lane) on a site that is 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.

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

- Site:** R-1ac(A) (Single family district 1 acre)
- North:** R-1/2ac(A) (Single family district ½ acre)
- South:** R-1ac(A) (Single family district 1 acre)
- East:** R-1ac(A)(SUP 1622) (Single family district 1 acre)(Specific Use Permit)
- 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, south, east, and west are developed with single family uses.

## **Zoning/BDA History:**

1. BDA 112-006, Property at 4929 Royal Lane (two lots west of the subject site)      On January 17, 2012, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of 4' 6" and imposed the submitted site plan/elevation and gate elevation plan as a condition to this request. The case report stated that the request was made in conjunction with maintaining an approximately 7' 9" high brick fence with 8' 6' high brick columns and a 6' high open wrought iron gate in the site's 40' front yard setback on a site developed with a single family home.

## **Timeline:**

- January 23, 2014: 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 13, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- February 13, 2014: The Board Administrator shared the following information with the applicant via email:
- an attachment that provided the public hearing date and panel that will consider the application; the February 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- March 4, 2014: 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 Sustainable Development and Construction Department Current

Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

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

- This request focuses on constructing and maintaining a board-on-board cedar fence ranging from 7' – 9' in height in the one of the site's two required front yards (Royal Lane) on a site that is developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northeast corner of Royal Lane and Crooked Creek Drive. The site has a 40' required front yard along Crooked Creek Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 20' required front yard along Royal Lane, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 10' setback is required. But the site's Royal Lane frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots zoned/developed with single family homes east of the site that front/are oriented southward towards Royal Lane. Regardless of how the existing home on the subject site is oriented to front onto Crooked Creek Drive (and "side" to Royal Lane), the site has two required front yards where the focus of the applicant's request in this application is only to construct/maintain a fence higher than 4' in the site's required front yard on Royal Lane. (No part of the application is made to address any fence in the site's Crooked Creek Drive required front yard).
- The applicant has submitted a site plan and a partial elevation of the proposal in the front yard setback with notations indicating that the proposed fence ranges from 7' – 9' in height and is comprised of board-on-board cedar materials.
- The following additional information was gleaned from the submitted site plan:
  - The proposed fence in the Royal Lane required front yard is represented as being approximately 175' in length parallel to the Royal Lane.
  - The proposal is represented as being located on the Royal Lane front property line or about 13' from the Royal Lane pavement line.
- No homes would front the proposed fence since the property to the south is a single family subdivision that is surrounded with an approximately 10' high solid fence.
- The Board Administrator noted an approximately 5' – 7' high solid masonry fence located immediately adjacent to the location of the proposed fence on the subject site – a fence on the subject site that the applicant has an understanding from Building Inspection that is nonconforming or grandfathered given its age; and a

fence the applicant has chosen not to include as part of his application to the board. According to the applicant, his proposal to the Board in this application would be slightly taller than this existing nonconforming fence that runs parallel to the property along Royal Lane.

- The Board Administrator conducted a field visit of the site and surrounding area and noted the following fences that appeared to be above 4' in height and located in a front yard setback:
  - an approximately 8' high open wrought iron fence immediately east of the site with no recorded BDA history;
  - an approximately 10 high solid fence immediately south with no recorded BDA history;
  - an approximately 8' high solid wood fence immediately west of the subject site with no recorded BDA history;
  - an approximately 7' 9" high brick fence with 8' 6' high brick columns two lots west of the site that appears to be the result of a previously approved fence height special exception granted in 2012 (BDA 112-006).
- As of March 10, 2014, no letters had been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting this special exception of 5' with a condition imposed that the applicant complies with the submitted site plan and partial elevation would require the proposal exceeding 4' in height in the required front yard to be constructed/ maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 20, 2014**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITON: No one

**MOTION: Schulte**

I move that the Board of Adjustment grant application **BDA 134-025** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development code:

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

**SECONDED: Beikman**

AYES: 5– Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

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**FILE NUMBER:** BDA 134-010

**BUILDING OFFICIAL’S REPORT:** Application of Robert Baldwin for a special exception to the fence height regulations at 4834 S. Lindhurst Avenue. This property is more fully described as Lot 2, Block 3/5531, 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/maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 4834 S. Lindhurst Avenue

**APPLICANT:** Robert Baldwin

**REQUEST:**

A special exception to the fence height regulations of 4’ is requested to construct and maintain a fence in the site’s 40’ front yard setback on a site that is developed with a single family home – a 6’ high open wrought iron picket fence with 6’ 6” high stone columns and two 8’ high arched open wrought iron entry gates with 7’ high stone columns flanked by two, approximately 6’ -6’ 6” high, approximately 14’ long curved solid stone wing walls.

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: 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 989-069, Property at 4834 S. Lindhurst Avenue (the subject site) On June 15, 2009, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' 9" and imposed the submitted site plan and partial elevation as a condition to this request. The case report stated that the request was made "to construct a fence that is 8 feet 9 inches in a required front yard."
2. BDA 078-013, Property at 10395 Strait Lane (the lot immediately east of the subject site) On December 16, 1997, the Board of Adjustment Panel C granted a request for a special exception of 3' 6" and imposed the submitted site plan and elevation plans as a condition to the request. The case report stated that the request was made to construct and maintain an open metal fence and entry gate with masonry columns in the front yards along Strait Lane and S. Lindhurst Avenue.
3. BDA 95-006, Property at 10111 Strait Lane (the lot immediately northeast of the subject site) On January 24, 1995, the Board of Adjustment granted a request for a special exception to the height regulations to allow a 5' 7" – 6' 8" high open metal fence with 6' – 7' 2" high masonry columns. The Board imposed the submitted site plan, elevation, and visibility obstruction regulations.
4. BDA 95-071, Property at 4805 S. Lindhurst Avenue (the lot immediately northwest of the subject site) On May 23, 1995, the Board of Adjustment denied a request for a special exception to the height regulations of 2' 6" without prejudice. The case report stated that the request was made in conjunction with constructing and maintaining a 6' high open metal fence with 6' 6" high masonry columns on S. Lindhurst Avenue.

## **Timeline:**

December 18, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 15, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

January 15, 2014: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 29 & 30,  
2014:

The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

February 20, 2014: The Board of Adjustment Panel C conducted a public hearing on this application. The Board held the request under advisement until their next public hearing to be held on March 17, 2014.



February 27, 2014: The Board Administrator sent a letter to the applicant that noted the decision of the panel, and the March 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

March 4, 2014: 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 Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

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

- This request focuses on constructing and maintaining a fence in the site's 40' front yard setback on a site that is developed with a single family home – a 6' high open wrought iron picket fence with 6' 6" high stone columns and two 8' high arched open wrought iron entry gates with 7' high stone columns flanked by two approximately 6' -6' 6" high, approximately 14' long curved solid stone wing walls.
- The Board of Adjustment Panel C held this application under advisement at their February public hearing until March 17, 2014. As of March 10, 2014, no new/additional information has been submitted to staff by the applicant.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a revised site plan/elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted revised site plan/elevation:
  - The proposal in the front yard setback is represented as being approximately 220' in length parallel to the street with two recessed entryways; and approximately 21' – 39' in length perpendicular to the street on the east and west sides of the site in the front yard setback, respectively.
  - The proposed fence is represented as being located approximately 1' from the property line or about 12' from the pavement line.
- The proposal would be located on the site where one lot would have direct frontage, a lot which has no fence in its front yard setback.

- The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above 4' in height and located in a front yard setback. An approximately 6' high open metal fence is located immediately east of the subject site that appears to be the result of a special exception granted by the Board in 1997, and an approximately 6' high open metal fence is located immediately northeast of the subject site that appears to be a result of a special exception granted in 1995.
- The applicant has written that a similar request was granted by the Board in 2009 but the previous applicant never built the approved fence and that is what triggered the need for this request- a fence that while is similar in design, a request seeking to reduce the height of the previously approved fence.
- As of February 10, 2014, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted revised site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 20, 2014**

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm, Suite B, Dallas, TX

APPEARING IN OPPOSITON: John Stenger, 4831 S. Lindhurst, Dallas, TX

MOTION: **Carreon**

I move that the Board of Adjustment in Appeal No. **BDA 134-010**, hold this matter under advisement until **March 17, 2014**.

SECONDED: **Carreon**

AYES: 5– Richardson, Coulter, Carreon, Brannon, Gaspard

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: MARCH 17, 2014**

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm, Suite B, Dallas, TX

APPEARING IN OPPOSITON: No one

MOTION: **Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 134-010**, on application of Robert Baldwin, **grant** the request to construct and maintain an 8-foot-high fence in the property's front yard as a special exception to the fence height requirements in the

Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan/elevation is required.
- Privacy shrubbery over 3 feet tall is prohibited adjacent to the front yard fence. It is the intent of the board to keep open visibility to the front yard of the property.

**SECONDED: Beikman**

**AYES:** 5– Richardson, Coulter, Carreon, Schulte, Beikman

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**MOTION:**

I move to adjourn this meeting.

**SECONDED: Coulter**

**AYES:** 5– Richardson, Coulter, Carreon, Schulte, Beikman

**NAYS:** 0 -

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

**1:37 P. M. - Board Meeting adjourned for March 17, 2014.**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

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BOARD SECRETARY

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