

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY HALL, COUNCIL CHAMBERS
MONDAY, SEPTEMBER 19, 2005**

MEMBERS PRESENT AT BRIEFING: Frank Madrigal, Vice-Chair, Suzanne Smith, Panel Vice-Chair, David Choritek, regular member and Linda Wise, alternate member

MEMBERS ABSENT FROM BRIEFING: None

MEMBERS PRESENT AT HEARING: Frank Madrigal, Vice-Chair, Suzanne Smith, Panel Vice-Chair, David Choritek, regular member and Linda Wise, alternate member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Ileana Fernandez, Asst. City Attorney, Claire Swann, Asst. City Attorney, Danny Sipes, Development Code Specialist, Hamid Fard, Senior Engineer, Donnie Moore, Chief Planner, Jennifer Pitner, Senior Planner and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Ileana Fernandez, Asst. City Attorney, Claire Swann, Asst. City Attorney, Danny Sipes, Development Code Specialist, Hamid Fard, Senior Engineer, Donnie Moore, Chief Planner, Jennifer Pitner, Senior Planner and Trena Law, Board Secretary

10:21 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 19, 2005** docket.

1:27 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand

upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C August 15, 2005 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

MOTION: Smith

I move approval of the Monday, August 15, 2005, Board of Adjustment Public Hearing minutes.

SECONDED: Wise

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

MISCELLANEOUS ITEM NO. 3

A briefing will be conducted by the Assistant City Attorney to the Board of Adjustment on zoning and land use bills from the 79th Texas Legislature (see Attachment A).

***This was not an action item.**

FILE NUMBER: BDA 045-289

BUILDING OFFICIAL’S REPORT:

Application of Giuseppe Favarato, represented by Rob Baldwin, for a variance to the off street parking regulations at 5403 Monticello Avenue. This property is more fully described as Lot 26 in City Block 12/2177 and is zoned CD 9 which requires a 20 foot setback for an enclosed parking space. The applicant proposes to construct an accessory garage and provide an 8.8 foot setback for an enclosed parking space which would require a variance of 11.2 feet to the to the off street parking regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 5403 Monticello Avenue

**APPLICANT: Giuseppe Favarato
Represented by Rob Baldwin**

:REQUEST:

- A variance to the off-street parking regulations of 11.2' is requested to enclose parking spaces on site developed with a single family home.

STANDARD FOR A VARIANCE:

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

GENERAL FACTS:

- The site is flat, rectangular in shape (55.5' x 145'), and approximately 8,047 square feet in area.
- The site is zoned Conservation District 9 which allows for R-7.5(A) sized lots in this area, requiring a minimum of 7,500 square feet in area.
- The Dallas Development Code states the following:
 - "A parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. This provision controls over any building line platted to a lesser setback and any other provision of this article."
- The submitted site plan indicates that enclosed parking spaces (in an attached garage structure) are to be located 8.8' from the right of way line on the west, being the same as the west property line.
- The proposed structure would have a total building footprint of about 440 square feet (or 20' x 22').
- The proposed addition is to be located 1.5' from the sites nearest property line which is the north rear property line. It would be 8.8' from the west property line.
- The CD 9 ordinance allows for garages to be located in the rear 30 percent of the lot. Corner lots cannot have garages closer to the corner side lot line than the main structure.
- CD 9 states that garages under 15 feet in height must provide a 3' rear setback unless the property owner can document the original footprint, in which case the garage may be built on the original footprint.

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 9 (M-Streets Conservation District)
North: CD No. 9 (M-Streets Conservation District)
South: CD No. 9 (M-Streets Conservation District)
East: CD No. 9 (M-Streets Conservation District)
West: CD No. 9 (M-Streets Conservation District)

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. B001-131 On January 23, 2001, the Board of Adjustment Panel C approved a request to for a variance to the off-street parking regulations for an enclosed parking space of 3 feet located at 5454 Monticello Avenue.

Timeline:

- July 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.
- August 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 22, 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 September 9th 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 June public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

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

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Department Transportation Engineer, Senior Planner Pitner; and the Assistant City Attorney to the Board.

Development Services Department Transportation Engineer submitted review comments conjunction with this application (see Attachment A).

August 31, 2005 The applicant submitted six letters of support.

September 2, 2005 The applicant submitted a letter in response to the Transportation Engineer's August 26, 2005 comments (see Attachment C).

STAFF ANALYSIS:

- The Development Services Transportation Engineer provided comments on August 26, 2005 (see Attachment A).
- The proposed garage structure appears to meet the CD 9 garage regulations, except for the enclosed parking setback.
- The proposed garage provides the same west side setback adjacent to Glencoe as the main structure.
- The submitted site plan indicates there would be a distance of about 8.8' from the garage door to the property line and a distance of about 20.5' from the garage door to the pavement line.
- If the Board were to approve the variance request, subject to imposing a condition that the applicant complies with the submitted site plan, the proposed garage structure would be restricted to the specific location shown on the plans.
- Typically, when the Board has found that this type of variance request is warranted, they have imposed the following conditions:
 - Compliance with the submitted site plan is required.

- An automatic garage door must be installed and maintained in working order at all times.
- At no time may the area in front of the garage be utilized for parking of vehicles.
- All applicable permits must be obtained.

These conditions are imposed to assure that the variance will not be contrary to public interest.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Chortek

I move that the Board of Adjustment **grant** application **BDA 045-289** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required;
- An automatic garage door must be installed and maintained in working order at all times;
- At no time may the area in front of the garage be utilized for parking of vehicles; and
- All applicable permits must be obtained.

SECONDED: Wise

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-292

BUILDING OFFICIAL’S REPORT:

Application of Dan and Ann Noble for a variance to the front yard setback regulations and special exception to the fence regulations at 6843 Lorna Lane. This property is more fully described as Lot 8 in City Block D/2805 and is zoned R-10 (A) which requires a 30 foot front yard setback and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a swimming pool and provide a 13 foot front yard setback, and to construct an 8 foot high fence in the required front yard setback. This would require a variance of 17 feet to the front yard setback regulations and special exception of 4 feet to the fence height 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: 6843 Lorna Lane

APPLICANT: Dan and Ann Noble

REQUESTS:

- The following appeals have been made in this application on a site currently developed with a single family home:
 1. A variance to the front yard setback regulations of 17' is requested in conjunction with constructing and maintaining a swimming pool in the 30'-Pickens Street front yard setback.
 2. A special exception to the fence height regulations of 4' is requested in conjunction with constructing a combination 6' 8"-high open wood slat fence/solid "burnished block limestone aggregate" wall, and an 8'-high wood trellis in the Pickens Street front yard setback.

STANDARD FOR A VARIANCE:

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

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 (related to the variance request):

- The Dallas Development Code requires a 30'-front yard setback on lots zoned R-10(A).
The applicant is proposing to provide a 13'-front yard setback on the eastern side of the site for an approximately 30' x 14' (or 420 square foot) swimming pool.

- The site has two front yard setbacks: one along Lorna Lane and another along Pickens Street.
- The submitted site plan indicates that both the existing single family home and proposed swimming pool are in compliance with the 30' front yard setback on Lorna Lane.
- The Dallas Development Code states the following with regard to front yard provisions for residential district:
 - If a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations. If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by this section, and the longer frontage is governed by side yard regulations. Notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.
- The site's longer frontage is along Pickens Street, however, this longer frontage is deemed a front yard in order to maintain the established setback of the lot/home along this street to the north that "fronts" Pickens Street.
- Although a portion of the existing house is located in the 30'-Pickens Street front yard setback, the applicant is not requesting that the existing house be "varied." (The house was built decades ago and appears to have "nonconforming structure" status which allows the owner to replace the house back in the same footprint in the front yard setback if a natural cause would destroy or damage the house).
- The subject site is zoned R-10(A), moderately-sloped, irregular in shape (approximately 108' on the north, approximately 112' on the east, approximately 69' on the south, and approximately 115' on the west), and approximately 10,000 square feet in area.
- According to DCAD records, the site is developed with the following:
 - A single family home built in 1936 that is in "very good" condition with 3,830 square feet of living area;
 - A 399 square foot detached garage; and
 - A 204 square foot storage building.

The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the a booklet that included information related to lot hardship, existing conditions/permits, continuity, precedence, home improvement, and safety on Pickens.

GENERAL FACTS (related to the fence special exception request):

- 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 scaled site plan makes the following notations:
 - The proposed fence/wall is staggered in design and to be located in the Pickens Street front yard setback;
 - The proposed fence/wall is approximately 38 feet in length along Pickens Street, and approximately 20' in length perpendicular to Pickens Street to the north and south of the proposed swimming pool;

- The proposed fence/wall is to be located at a range of approximately 2'-12' from the Pickens Street front property line or at a range of about 14' - 24' from the Pickens Street pavement line.
- Scaled south, north, and east fence/wall elevations make the following notations:
 - The proposed fence/wall in the 30' front yard setback looking north is comprised of a 6' 8"-high "burnished block limestone aggregate" wall that is about 12' in length and a 6'-high wood slat fence that is about 4' in length;
 - The proposed fence/wall in the 30' front yard setback looking south is comprised of a 6' 8"-high "burnished block limestone aggregate" wall that is about 12' in length and a 6'-high wood slat fence that is about 9' in length; and
 - The proposed fence/wall in the 30' front yard setback looking west is comprised of a 6' 8"-high "burnished block limestone aggregate" wall that is about 8' in length, a 6'-high wood slat fence that is about 29' in length, and an 8'-high wood trellis that is about 14 feet in length.
- Neither a "landscape plan" nor site plan has been submitted in conjunction with the application that details landscape materials to be located adjacent to the proposed fence/wall.
- The proposed fence/wall and trellis are located on a site where three single family homes have indirect frontage. The home immediately east of the site faces Lorna Lane and has an approximately 6'-high solid wood fence (a fence may be permitted by right if its Pickens Street "frontage" is deemed a side yard); the houses southeast and northeast of the site "front" Lorna Lane and Burwood Lane, respectively.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the a booklet that included information related to lot hardship, existing conditions/permits, continuity, precedence, home improvement, and safety on Pickens.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- July 29, 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. (Color large-sized photographs were submitted that will be available for review upon request at the briefing and public hearing on this matter).
- August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 19, 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 August 26th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- Sept. 6, 2005: The applicant forwarded an email to the Board Administrator which requested that the original application for a fence height special

exception be amended from 2' 8" to 4'. This would address the applicant's proposal where a 14'-long, 8'-high trellis would be located in the Pickens Street front yard setback.

Sept. 8, 2005 The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS (related to the variance request):

- The site has two front yard setbacks (30' front yard setbacks on Lorna Lane and Pickens Street). The subject site is zoned R-10(A), moderately-sloped, irregular in shape (approximately 108' on the north, approximately 112' on the east, approximately 69' on the south, and approximately 115' on the west), and approximately 10,000 square feet in area.
- The applicant has submitted a site plan/attachment that indicates that the developable space on the lot is reduced 25-30% with the additional imposition of the 30' front yard setback along Pickens Street. If the Pickens Street frontage on this site were able to be deemed a side yard (as it appears that the lots on all other corners at the intersection of Lorna Lane and Pickens Street are), the applicant would only be required to provide a 6' setback.
- As of September 9th, no letters had been submitted to staff in opposition to the proposed fence/wall, and a petition had been submitted that is signed by 15 neighbors/owners in support.
- If the Board were to grant the front yard variance request, subject to the submitted site plan, the encroachment would be restricted to a swimming pool structure that would be located in the Pickens Street front yard setback with no existing or proposed structure "varied" in the Lorna Lane front yard setback. The area shown on this plan encroaching into the Pickens Street front yard setback is approximately 200 square feet in area (or approximately 14' x 14'), resulting in a front yard setback ranging from 13' – 21'.

STAFF ANALYSIS (related to the fence special exception request):

- A scaled site plan and elevation plans have been submitted that document the location of the proposed fence/wall and trellis relative to their proximity to the property line and pavement line. The site plan also clearly shows the length of the proposed fence and wall relative to the lot.
- Scaled elevations have been submitted that document the materials and heights of the proposed wood slat fence and "burnished block limestone aggregate" wall (6' 8"), and wood trellis (8').
- The proposed wall is to be constructed of a durable material; the proposed fence and trellis are to be constructed of wood which generally is not as durable as masonry or iron.
- The proposed fence/wall and trellis would be located where no single family home would have direct frontage.
- As of September 9th, no letters had been submitted to staff in opposition to the proposed fence/wall, and a petition had been submitted that is signed by 15 neighbors/owners in support of the request.

- Granting this special exception of 4' with conditions imposed that the applicant complies with the submitted site plan and elevations would assure that the proposed fence/wall and trellis are constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Chortek

I move that the Board of Adjustment **grant** application **BDA 045-292** 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 revised elevations is required.

SECONDED: Wise

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-286

BUILDING OFFICIAL’S REPORT:

Application of A. Winston Puig for a special exception to the fence regulations at 3424 Gillespie Street. This property is more fully described as Lot 1A in City Block 1031 and is zoned PD 193 which limits the height of a fence in the front yard to 9 feet. The applicant proposes to construct a 15 foot 6 inch fence in the required front yard setback which would require a special exception of 6 feet 6 inches. Referred to the Board of Adjustment in accordance with Section 51-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 3424 Gillespie Street

APPLICANT: A. Winston Puig

September 19, 2005 Public Hearing Notes:

- The Board Administrator identified a discovery made by staff on the morning of September 16th that precluded the Board’s ability to take action on this matter at their public hearing: the address for this case on the posted agenda was incorrect. (The address on the posted agenda indicated 3426 Gillespie Street when the correct

address for the subject site was 3424 Gillespie Street). The administrator informed the board that the address had been correctly conveyed in the notices sent to property owners and in the newspaper advertisement, therefore would not require renote/readvertisement.

REQUEST:

- A special exception to the fence height regulations of 6' 6" is requested in conjunction with constructing the following in the Gillespie Street front yard setback on a site developed with townhomes (The Villas at the Mansion):
 1. An approximately 10.5'-high open wrought iron picket fence (including an approximately 1'-2' high stucco base);
 2. 15.5'-high entry gate columns; and
 3. An inverted arched open wrought iron entry gate ranging in height from approximately 12' at the entry columns downward to the center of the gate at approximately 9.5' in height.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade. 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 in PD No. 193 (O-2 Subdistrict) which allows a 9'-high fence by right.
- A scaled gate elevation was submitted with the application that indicates an open wrought iron entry gate where the highest component of the proposal is 15' 6" for the two entry gate columns. The elevation shows an inverted arched open wrought iron entry gate ranging in height from approximately 12' at the entry columns downward to the center of the gate at approximately 9.5' in height
- A series of site plans were forwarded to the Board Administrator from Building Inspection. None of the plans forwarded to the Board Administrator with the file provided a scaled representation of the proposed fence/gate and its location relative to the site's property line and Gillespie Street curb line.
- However on August 26th, the applicant's representative submitted a revised site plan/elevation/section document to the Board Administrator that provided the following information (see Attachment A):
 - A scaled elevation plan that indicated an approximately 10.5'-high open wrought iron picket fence (including an approximately 1'-2' high stucco base); and 15.5'-high entry gate columns.

- Two scaled section drawings that indicated the entry column located about 1' away from the building line (where the fence/gate at the proposed heights would be permitted by right).
- A scaled site plan that indicated that the fence/gate would be linear in design, approximately 50'-long, and located approximately 13' from the property line (or 31' 5" from the back of the Gillespie Street curb line).
- The proposed fence/gate would be located on a site where no single family home would have direct/indirect frontage. (The proposal would be located immediately across Gillespie Street from The Mansion at Turtle Creek Hotel).
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fence/walls/gates.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
North: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
South: PD No. 374 H-29 (Planned Development District, Historic)
East: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
West: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)

Land Use:

The subject site is developed with residential uses (The Villas at The Mansion). The areas to the north, east, and west are developed with residential uses, and the area to the south is developed as a hotel.

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:

July 18, 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.

August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

August 19, 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 August 26th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

August 26, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

Sept. 8, 2005 The applicant's representative submitted four letters from neighbors/owners who support the request (see Attachment B).

STAFF ANALYSIS:

- A revised scaled site plan/section/elevation document has been submitted that indicates the location of the proposed fence, columns, and gate relative to their proximity to the property line and Gillespie Street curb line. The site plan on this document also clearly shows the length of the proposed fence/gate relative to the lot.
- A revised scaled site plan/section/elevation document and a gate elevation have been submitted that document the height of the proposed open wrought iron fence (10.5'), entry gate columns (15.5'), and inverted arched gate (12' – 9.5'), and the

materials of the fence (open wrought iron with stucco base), and gate (open wrought iron).

- The proposed fence, columns, and gate are to be constructed of durable materials.
- The proposal directly “fronts” an existing hotel.
- There are no other fences, walls or gates in the immediate area that appear to exceed the 9’ maximum height allowed for a fence in the zoning district.
- As of September 9th, no letters had been submitted to staff in opposition to the request, and the applicant’s representative had forwarded 4 letters from neighbors/owners who support the request.
- Granting this special exception of 6’ 6” with conditions imposed that the applicant complies with the submitted gate elevation and scaled site plan/section/elevation document would assure that the proposed fence, entry columns, and gate are constructed and maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

*** Due to an administrative error, the board lacked jurisdiction to hear this case and it was therefore held over to October 17, 2005.**

FILE NUMBER: BDA 045-288

BUILDING OFFICIAL’S REPORT:

Application of Betty Rae Phillips, represented by Michael Rimsik for a special exception to the fence regulations at 6850 Forest Lane. This property is more fully described as a tract of land in City Block 7488 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 9 foot fence in the required front yard setback which would require a special exception of 5 feet to the fence height 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: 6850 Forest Lane

APPLICANT: Betty Rae Phillips
Represented by Michael Rimsik

September 19, 2005 Public Hearing Notes:

- The applicant’s representative submitted a revised site plan/elevation to the Board of Adjustment that documented a 7’-high fence/wall with 8’-high columns.

REQUEST:

- A special exception to the fence height regulations of 5'* is requested in conjunction with constructing an 8'-high solid cedar fence with approximately 9'-high posts in the 40'-Forest Lane front yard setback on a site developed with a single family home.
- * On September 9th, the applicant's representative submitted a notebook of information that included a letter stating that "The only exception we are requesting is that the fence be built 7' high with 8' posts." No elevation or site plan was submitted indicating the proposal with these dimensions; however, the applicant's representative told the Board Administrator that he plans to bring a revised site plan/elevation with the reduced fence/wall heights to the September 19th public hearing.

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.
- Two site plans/elevations were forwarded to the Board Administrator with the case file from Building Inspection. One elevation indicated a cedar fence with no posts; the other elevation indicated a cedar fence with posts.
- The Board Administrator contacted the applicant's representative and inquired which plan/elevation he wanted the board to consider. The applicant informed the administrator that it was his understanding from Building Inspection staff that the site plan/elevation that showed no posts would not be included with the file since the intent was for the board to only consider the site plan/elevation that showed the fence with posts.
- The submitted site plan/elevation that the applicant wants the board to consider is the site plan/elevation with fence posts. This document makes the following notations:
 - The proposed solid cedar fence to be located parallel to Forest Lane with two recessed entryways;
 - The proposed solid cedar fence to be approximately 180 feet long;
 - The proposed solid cedar fence to be located about 1' from the property line and approximately 12' from the Forest Lane pavement line;
 - The proposed entry gates to be located about 21' from the property line and approximately 32' from the projected pavement line;
 - Four "landscape beds" on either side of the two ingress/egress points on the site.
- The proposed solid cedar wall would be located on a site where no single family home would have direct/indirect frontage to the proposed wall. The homes

immediately north of the site “front” either Greenwich Lane or Hampstead Lane both of which are perpendicular to Forest Lane.

- The Board Administrator conducted a field visit of the site and surrounding area along Forest Lane (approximately 500’ to the east and west of the site), and noted one other fence/wall which appeared to be located in the front yard setback. (Note that these dimensions are approximations):
 - A 7’-high solid masonry wall immediately east of the site.The administrator noted approximately 9’-high solid wood fences immediately northeast and northwest of the site. Both of these wood fence are most likely allowed by right since the lots on which these fences/walls are located “front” either Greenwich Lane or Hampstead Lane with their Forest Lane “frontages” actually deemed side yards where 9’-high fences are permitted by right.
- 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 mentions a fence/wall with reduced heights (7’-high fence with 8’-high posts), and further details why the request should be granted; and
 - Photos of the site and surrounding properties (which will be available for review at the briefing/public hearing).

BACKGROUND INFORMATION:

Zoning:

- Site: R-1ac (A) (Single family district 1 acre)
- North: R-16 (A) (Single family district 16,000 square feet)
- 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 93-097, 6850 Forest Lane (the subject site) On May 25, 1993, the Board of Adjustment granted a request for a special exception to fence height regulations of 9’, subject to the following conditions:
 - 1) fence be limited to 7.5’ above grade on street frontage,
 - 2) entrance gate to be limited to total height of 13 feet (9 feet for the fence 4 feet for the lamps) at a setback of 24 feet;
 - 3) no fence be permitted solid up to a height of 2 feet and then the remaining portion

above 2' be of wrought iron; and 4) columns may be allowed to support fence. The case report stated that the fence was proposed to be 7.5'-9' high, either constructed of solid wood or brick (or a combination of the two), and will be located behind an existing 6'-7' high Photinia hedge.

On August 24, 1993, the Board of Adjustment approved a site/elevation plan for the proposed fence on the subject property as a "Miscellaneous Item." This item was brought to the board to allow them to consider allowing solid entrance gates which were contrary to the approved plan of May 25, 1993. (A copy of this case file will be available for review upon request at the September 19, 2005 public hearing).

Timeline:

- July 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.
- August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 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 August 26th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and

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

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

Sept. 9, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- A scaled site plan/elevation document has been submitted that indicates the location of the proposed wall, columns, and gates relative to their proximity to the property line and pavement line. The site plan/elevation document also clearly shows the length of the proposed wall relative to the lot.
- The submitted scaled site plan/elevation document shows the height of the proposed cedar wall (8') and columns (9'). Although gates are not shown on this document in an elevation form (or on any other document submitted with the application), the site plan references "New Automatic W.I. Car Gates."
- No documentation of existing and/or proposed landscape materials (other than "landscape beds" at the entryways) has been provided on the street side of the proposed 8'-high, solid Cedar wall.
- The proposed wall is to be constructed of Cedar wood which may not be as durable as masonry or wrought iron materials.
- The proposed wall would be located immediately across from single family homes that front either Greenwich Lane or Hampstead Lane.
- As of September 9th, no letters had been submitted to staff either in support or in opposition to the proposed fences.
- Granting this special exception of 5' with conditions imposed that the applicant complies with the submitted scaled site plan/elevation document would assure that the proposed wall, columns, and gates are constructed and maintained as shown on this document.
- The applicant's representative submitted a letter that mentions that the exception is requested for a fence to be built 7' high with 8' posts. The applicant's representative has informed the Board Administrator that he will submit revised documents at the September 19th public hearing that reflects these revised/reduced heights.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: Michael Rimsik, P.O. Box 793857, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Smith

I move that the Board of Adjustment in Appeal No. **BDA 045-288**, on application of Betty Rae Phillips, **grant** the request of this applicant to construct an 8 foot high fence on the property as a special exception to the height requirements for fences contained in the Dallas Development Code, because our evaluation of the property and 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 revised submitted site plan/elevation is required; and
- Landscaping is to be provided along the front of the fence.

SECONDED: Chortek

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-294

BUILDING OFFICIAL’S REPORT:

Application of David Adams represented by Michael R. Coker (Michael R. Coker Company, Inc.) for a special exception to the fence regulations and to the visibility obstruction regulations at 3627 Dickason Avenue. This property is more fully described as a tract of land in City Block 1029 and is zoned PD 193 MF-3 which limits the height of a fence in the required front yard to 4 feet and requires that no structure, berm, plant life, or any other item be located in a visibility corner clip. The applicant proposes to maintain an existing 6 foot fence in the required front yard and elements located in the visibility corner clip. This would require a special exception of 2 feet to the fence regulations and special exceptions to the visibility obstruction regulations. Referred to the Board of Adjustment in accordance with Section 51-3.102(d) (3) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions and variances.

LOCATION: 3627 Dickason Avenue

APPLICANT: David Adams
Represented by Michael R. Coker (Michael R. Coker Company, Inc.)

REQUESTS:

The following appeals have been made in this application on a site currently developed with townhomes:

1. A special exception to the fence height regulations of 2.5 feet* is requested to maintain a 6.5'-high open wrought iron fence located in the Welborn Street and Dickason Street front yard setbacks.

2. Special exceptions to the visibility obstruction regulations are requested to maintain open metal vehicular gates and an open wrought iron fence and gates in the 20'-visibility triangles at three drive approaches, and in the 30'-visibility triangle at the Welborn/Dickason intersection.
- * Note that the notice sent to property owners and advertised in the newspaper conveyed a fence height special exception of only 2 feet. The applicant did not discover that the fence actually reached 6.5' in height until the afternoon of September 8th. At this point, staff did not have time to adequately re-notice the fence height special exception request in the newspaper 10 days prior to the September 19th hearing.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS (related to the fence special exception request):

- The Dallas Development Code states that in all residential districts, except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.
- In addition, the Dallas Development Code states that in a multifamily districts, a fence located in the required front yard may be built to a maximum height of 6 feet above grade if all conditions in the following subparagraph are met:
 - No lot in the blockface may be zoned as a single family or duplex district.
 - No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.
 - No fence panel having less than 50 percent open surface may be located less than five feet from the front lot line.
- Until September 9, 2005, the applicant request was to maintain a 6'-high fence on the subject site which is located in a multifamily subdistrict. In this particular case, the maximum height allowed for a fence located in the required front yard is 4' since gates for vehicular traffic are located less than 20 feet from the back of the street on the subject property.
- Building Inspection had originally documented that the need before the board of adjustment was a special exception to the fence regulations related to the location of the gates on the site that were not located 20' from the back of the street curb. The applicant's application/appeal to the board addressed this issue. However, upon

further review of the Dallas Development Code by the Board Administrator and the Assistant City Attorneys to the board, it appeared that the gate location was only a factor as to the issue at hand: how high a fence could be constructed and maintained in a multifamily district or subdistrict. The Board of Adjustment review staff members determined at the August 29th staff review team meeting that the issue before the board was a fence height special exception of 2' since only a 4'-high fence is permitted on this site in the multifamily subdistrict since there are gates on the site that are not located at least 20' from the back of the street curb. A revised Building Official's was created accordingly.

- Building Inspection states that no permit was issued by the City for the existing fence on this site.
- The site plan submitted with the application indicated that the existing fence and gates in the front yard setback have the following additional characteristics:
 - "6'-0" open wrought iron fence;"
 - Approximately 180' in length along Welborn Street and approximately 110' in length along Dickason Street;
 - Located approximately on the site's front property lines or about 12' from the curb lines of Welborn Street and Dickason Street; and
 - Located on a site where no single family homes have direct/indirect frontage to the existing fence and gate.
- 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 in a front yard setback.
- On September 9, 2005, the applicant's representative submitted a letter to the Board (see Attachment A). The letter stated that it had been determined after measuring the existing fence on the site, that its maximum height was 6'-6" in height which would require a fence special exception of 2.5 feet, not the advertised two feet. The letter requested that both the fence height and visibility obstruction special exception requests be postponed until October 17th to allow the request for the fence height special exception to be properly re-noticed and re-advertised.

GENERAL FACTS (related to the visibility obstruction special exception request):

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - In a visibility triangle as defined in the Code (30-foot visibility triangles at intersections of streets in PD No. 193 that are not designated on the city's thoroughfare plan, and 20-foot visibility triangles at drive approaches); and
 - Between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant requests to maintain an open metal fence and open metal vehicular gates in the site's six 20'-visibility triangles at the drive approaches, and in the 30'-visibility triangle at the Welborn Street and Dickason Street intersection.
- On September 9, 2005, the applicant's representative submitted a letter to the Board (see Attachment A). The letter stated that it had been determined after measuring the existing fence, that its maximum height was 6'-6" in height which would require a fence special exception of 2.5 feet, not the advertised two feet. The letter requested

that both the fence height and visibility obstruction special exception requests be postponed until October 17th to allow the request for the fence height special exception to be properly re-noticed and re-advertised.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-3 Subdistrict) (Planned Development District, Multifamily)
North: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)
South: PD No. 193 (MF-3 Subdistrict) (Planned Development District, Multifamily)
East: PD No. 193 (MF-3 Subdistrict) (Planned Development District, Multifamily)
West: PD No. 193 (O-2 Subdistrict) (Planned Development District, Office)

Land Use:

The subject site is developed with a townhomes. The areas to the north, east, south, and west are developed with mix of residential and office uses.

Zoning/BDA History:

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

Timeline:

- August 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.
- August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 19, 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 August 26th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket;
 - the September 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;

- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

A review comment sheet was submitted by the Development Services Senior Transportation Engineer in conjunction with this application on August 26, 2005. The engineer commented that he had no objections to the gate location less than 20 from the back of the street curbs but recommended that the special exception to the visibility obstruction regulations pertaining to intersection triangle be denied. The engineer commented that even though the fence may be of open wrought iron material, the number of people driving through the intersection is higher than the residents exiting through the existing driveway, therefore inadequate visibility at the corner would impede sight distances and will impact the safety of drivers.

Sept. 9, 2005 The applicant’s representative submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS (related to the fence special exception request):

- A scaled site plan was submitted that documents the location of an existing “6’-high open wrought iron fence” relative to its proximity to the property line and pavement line.
- A scaled elevation has not been submitted that documents the height of the existing fence and gates, but the applicant submitted a letter that documented that the height of the existing fence was 6.5’ high rather than the 6’ height that was noticed to property owners and advertised in the newspaper.
- The applicant has requested that the board delay action on this matter until October 17th to allow the City to send accurate notice to owners and to accurately advertise the request in the newspaper for a fence height special exception request of 2.5’ requested in conjunction with maintaining a fence that reaches 6.5’ (or ½ foot higher) than what was noticed and advertised on September 8, 2005.

- Granting this special exception of only 2' on September 19th would not address the 6.5'-high fence that the applicant wants to maintain on the subject site.

STAFF ANALYSIS (related to the visibility obstruction special exception request):

- The Development Services Senior Engineer has commented that he had no objections to the gate location less than 20 from the back of the street curbs but recommended that the special exception to the visibility obstruction regulations pertaining to intersection triangle be denied. The engineer commented that even though the fence may be of open wrought iron material, the number of people driving through the intersection is higher than the residents exiting through the existing driveway, therefore inadequate visibility at the corner would impede sight distances and will impact the safety of drivers.
- The applicant is aware that the visibility obstruction special exception request was properly noticed, however, has requested that action on this request be delayed until October 17th so it can be considered simultaneously with the fence height special exception request that must be re-noticed and re-advertised to reflect the existing 6.5'-high fence on the site.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: Michael Coker, 2700 Swiss Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Smith**

I move that the Board of Adjustment in Appeal No. **BDA 045-294**, hold this matter under advisement until **October 17, 2005**.

SECONDED: **Wise**

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-271

BUILDING OFFICIAL'S REPORT:

Application of Carlyle Toll Hill L.P., represented by Ryan Bibb Consultants for a special exception to the sign regulations at 5310 Harvest Hill Road. This property is more fully described as Lot 2 in City Block A/7000 and is zoned NO (A) which limits the property to two detached signs. The applicant proposes to erect one additional detached sign which would require a special exception to the sign 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: 5310 Harvest Hill Road

APPLICANT: Carlyle Toll Hill L.P.
Represented by Ryan Bibb Consultants

September 19, 2005 Public Hearing Notes:

- The applicant's representative submitted photographs to the Board of Adjustment of the existing signs on the subject site and surrounding area.
- One of the Board of Adjustment members encouraged the applicant's representative to consider redesigning his proposed additional sign, specifically considering a sign proposal that may be a monument sign, of more substantial building materials (brick), a sign with text limited to the leasing agents name and contact number. Another member asked the applicant's representative to consider resubmitting his proposal in a way that showed how the proposed additional sign related to either existing or proposed landscaping around the sign.

REQUEST:

- A special exception to the sign regulations is requested to allow an additional detached premise sign on a site developed as an office building (Toll Hill Office Park). The applicant proposes to construct a detached premise "leasing" sign on the site at the southeast corner of the intersection of the Dallas North Tollway service road (or Dallas Parkway) and Harvest Hill Road.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED PREMISE SIGN:

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached premise sign on a premise in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

GENERAL FACTS:

- The Dallas Development Code states that each non-residential premise may display one detached sign for each 600 feet, or fraction thereof, of frontage along a public way.
- The subject site has a total combined frontage along the Dallas North Tollway service road and Harvest Hill Road of 782.13 feet, and is permitted to have two detached premise signs by right.
The applicant is proposing an additional (or 3rd) sign to be located on the site.
- A sign elevation had been submitted with the original application. This elevation provided the following information:
 - 8' x 8' in size;
 - The text to be placed on the sign; and

- The height and sizes of the text on the sign.
- The originally submitted sign elevation did not indicate if or how the sign will be mounted (monument sign on the ground verses monopole-mounted).
- The originally submitted site plan indicated that the proposed additional sign would be located near the intersection of the Dallas Parkway and Harvest Hill Road. This submitted site plan did not indicate the location of existing signs on the site. However, according to a field visit conducted by the Board Administrator, the site appeared to have two monument signs: one sign adjacent to the building at the corner of the Dallas North Tollway service road and Harvest Hill Drive; the other sign located on Harvest Hill Drive.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information (submitted after the July 27th staff review team meeting therefore not part of the August staff analysis on this request) included the following:
 - A letter that explained in further detail why the request should be granted;
 - A table of "Summary of Office Market Indicators;"
 - A map entitled "Locations of lease signage at office;" and
 - Photos of the site and surrounding area (which will be available for review upon request at the briefing/hearing).
- The Board Administrator identified his discovery of a full-scale plan in the case file that was entitled "New Revised Site Plan" at the August 15th public hearing. The administrator informed the board of the following concerns:
 - The "New Revised Site Plan" had not been discovered earlier in the process in part because there had not been a reduced copy of this plan submitted in conjunction with the request.
 - The case number of the "New Revised Site Plan" in the file was labeled "BDA034-195" rather than the case number for the current application: BDA 045-271.
 - The applicant's representative had not identified the submittal of this "New Revised Site Plan" to either the board or to staff prior to administrator's discovery at the public hearing.
 - Although information on the "New Revised Site Plan" indicated the location and sizes of two existing signs on the site, information pertaining to the additional 3rd sign on the "New Revised Site Plan" did not match information pertaining to the 3rd additional sign on the other "Site Plan" - the site plan that staff had thought was the only plan submitted in conjunction with the request until discovery of the other plan at the public hearing.
 - The sign on the reduced "Site Plan" was linear in design, and the sign on the "New Revised Site Plan" was "V"-shaped.
 - A note made on the "New Revised Site Plan" indicated a "Proposed Leasing Sign 8' x 4' Painted Wood, 2 sides "V." This note contradicted information detailed on the submitted sign elevation indicating that the sign was intended to be 8' x 8'.

The applicant informed the Board at the hearing that he had submitted the "New Revised Site Plan" per the suggestion of Building Inspection staff.
- The applicant's representative submitted additional information to the Board of Adjustment at the August 16th public hearing (see Attachment B).

- The applicant’s representative submitted a revised elevation and revised site plan to the Board of Adjustment Chief Planner on August 26, 2005. (Attachment C is a copy of the revised elevation plan. The applicant said that a reduced copy of the revised site plan would be submitted at a later date).

The revised sign elevation provided the following information:

- 8’ x 8’ in size;
- The text to be placed on the sign;
- The height and sizes of the text on the sign; and
- The sign to be located 12” from grade.

The revised full-scale site plan provided the following information:

- The location of the “proposed signage” on the site that appears to be delineated with a line longer than the 8’ length of the proposed sign that is shown on the submitted revised elevation;
- The location of the two existing “Bldg. Monument Signage” and “Title Texas Monument Signage” signs on the site. (The dimensions that were on the previously submitted plan that was discovered at the August 15th hearing have been omitted from this revised plan).

- The applicant’s representative submitted a document that included a revised site plan and sign elevations to the Board Administrator on September 8, 2005 (see Attachment D). This document provided the following information:

- The location and elevation (with dimensions) of the third/additional “proposed signage” on the site that appears to be delineated with a line longer than the 8’ length of the proposed sign that is shown on the submitted revised elevation of August 26th; and
- The location *and elevations (with dimensions)* of the two existing signs on the site.

BACKGROUND INFORMATION:

Zoning:

- Site: NO (A) (Neighborhood office)
- North: MU-3 (Mixed use district 3)
- South: PD No. 250 (Planned Development District 250)
- East: NO (A) (Neighborhood office)
- West: SUP No. 959 (R-10 (A)) (Specific Use Permit No. 959) (Single family district 16,000 square feet)

Land Use:

The site is currently developed with a two-story office building (Toll Hill Office Park). The areas to the north and east are developed with office uses, the area to the south is developed with single family uses; and the area to the west is the Dallas North Tollway.

Zoning/BDA History:

1. BDA034-195, 5310 Harvest Hill On September 20, 2004, the Board of

Road (the subject site)

Adjustment Panel C denied a request for a special exception to the sign regulations without prejudice. The case report states the request was made to construct a detached premise "leasing" sign at the southeast corner of the intersection of the Dallas North Tollway service road and Harvest Hill Road.

Timeline:

June 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.

July 15, 2005: 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."

July 15, 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 July 25th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the August 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the August public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

July 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August 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 Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

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

August 5, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A). This information was submitted after the July 27th staff review team meeting. Therefore staff did not have an opportunity to review and analyze this information in the report prepared for the August 15, 2005 hearing.

August 15, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application at the public hearing (see Attachment B). The board delayed action on this matter until September 19, 2005.

August 26, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment C).

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September 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 Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

Sept. 8, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment D).

STAFF ANALYSIS:

- A document has been submitted (Attachment D) that includes elevations (with dimensions) and a site plan indicating the locations of the two existing signs and the third additional proposed sign on the site.
- A revised elevation has been submitted that provides the dimensions of the proposed additional sign (8' x 8' or 64 square feet) that will be 12" above grade.
- Granting this special exception with conditions imposed that the applicant complies with the submitted revised site plan/sign elevation plan would allow a third sign to be placed on the site.

- Granting the request with a condition imposed that the applicant complies with the submitted revised site plan/sign elevation plan would assure that the existing and proposed signs are located as shown of the submitted site plan and are of the sizes indicated on the sign elevations. (The board may consider a slight discrepancy between the lengths of the “proposed signage” shown on the revised site plan/sign elevation plan at approximately 25’ in length verses the length of the proposed sign shown on the revised elevation at 8’ in length).

BOARD OF ADJUSTMENT ACTION: August 15, 2005

APPEARING IN FAVOR: Ryan Bibb, 11520 N Central Expwy, #205, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

I move that the Board of Adjustment in Appeal No. **BDA 045-271** hold this matter under advisement until **September 19, 2005**.

SECONDED: **Smith**

AYES: 4 – Madrigal, Smith, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: Ryan Bibb, 11520 N Central Expwy, #205, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Wise**

I move that the Board of Adjustment in Appeal No. **BDA 045-271**, hold this matter under advisement until **October 17, 2005**.

SECONDED: **Chortek**

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-275

BUILDING OFFICIAL’S REPORT:

Application of Peter Kavanagh, Zone Systems Inc., for a special exception to the fence regulations and to the visibility obstruction regulations at 10727-35 Camellia Drive. This property is more fully described as part of Lots 1 and 2 in City Block 2/5499 and is

zoned R-16 (A) which limits the height of a fence in the front yard to 4 feet and requires that no structure be located in a visibility corner clip. The applicant proposes to maintain an 8 foot 5 inch fence in the required front yard setback and be located in a visibility corner clip, which would require a special exception of 3 feet 5 inches to the fence height regulations and a special exception to the visibility obstruction 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: 10727-35 Camellia Drive
APPLICANT: Peter Kavanagh, Zone Systems Inc.

REQUEST:

- A special exception to the fence height regulations of 4' 5" is requested in conjunction with maintaining an 8'-high wood fence with 8' 5"-high stucco and concrete block columns and a 5' 10" wrought iron fence with 6' 6" wrought iron posts and 8' 4" wrought iron gates in the 35'-Camellia Drive front yard setback on a site that is developed with a single family house.
- A special exception to the visibility obstruction regulations are requested in conjunction with maintaining the above referenced fence and gates located in the 45'-visibility triangle at the intersection of Camellia Drive and Mums Place, and in nine 20'-visibility triangles at drive approaches on these two streets and the alley (five drive approach triangles on Mums Place, and four drive approach triangles on Camellia Drive).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.

- The fence located on the south corner of Mums Place and Camellia Drive, south of the request site, appears to be in the side yard and it has not been determined to be in the visibility triangle.

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: CR (Community Retail)

Land Use:

The subject site is developed with single family residential. The area to the west is developed with retail uses and surface parking lots for these uses; and the areas to the north, south, and east are developed with single family uses.

Zoning/BDA History:

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

Timeline:

- June 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.
- July 12, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 21, 2005: The Board Administrator contacted the applicant’s representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the August 5th 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, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure

pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the August public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

July 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August 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 Development Services Department Transportation Engineer; the Chief Arborist, Senior Planner Pitner and the Assistant City Attorney to the Board.

The Transportation Engineer submitted a review comment sheet stating his “site visit on July 25, 2005 indicates that the existing wrought iron fence/gate inside the 45’ x 45’ intersection and 20’ x 20’ driveway visibility triangles does not create a traffic hazard due to its open nature.”

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the existing wall and gate columns relative to their 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 wood fence (8’), stucco/block columns (8’ 6”), the wrought iron fence (5’ 10”), wrought iron posts (6’ 6”) and wrought iron gates (8’ 4”) and the building materials (wood, stucco, and wrought iron).
- The proposed wall is to be constructed of durable material (wrought iron and stucco) and non-durable materials (wood).
- Granting the fence height special exception of 4’ 5” and the special exception to the visibility obstruction regulations with conditions imposed that the applicant complies with the submitted site plan and fence elevation would assure that the proposed wall and columns are maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: August 15, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gomez

I move that the Board of Adjustment in Appeal No. **BDA 045-275** hold this matter under advisement until **September 19, 2005**.

SECONDED: Smith
AYES: 4 – Madrigal, Smith, Wise, Gomez
NAYS: 0–
MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: Peter Kavanagh, 1620 Handley, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Smith

I move that the Board of Adjustment in Appeal No. **BDA 045-275**, hold this matter under advisement until **October 17, 2005**.

SECONDED: Wise
AYES: 3 – Madrigal, Smith, Wise
NAYS: 1– Chortek,
MOTION PASSED: 3 – 1

MOTION: Smith

I move to adjourn this meeting.

SECONDED: Wise
AYES: 4 –Madrigal, Smith, Chortek, Wise
NAYS: 0 - None
MOTION PASSED: 4 – 0 (Unanimously)

2:30 P. M. - Board Meeting adjourned for **September 19, 2005**.

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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