

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, DECEMBER 13, 2005**

MEMBERS PRESENT AT BRIEFING: Randall White, Chair, Peggy Hill, Panel Vice-Chair, Rev. H.J. Johnson, regular member, Robert Richmond, Jr., regular member

MEMBERS ABSENT FROM BRIEFING: Ben Gabriel, regular member

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

MEMBERS PRESENT AT HEARING: Randall White, Chair, Peggy Hill, Panel Vice-Chair, Rev. H.J. Johnson, regular member, Ben Gabriel, regular member, Robert Richmond, Jr., regular member

MEMBERS ABSENT FROM HEARING: None

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

**11:00 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **December 13, 2005** docket.

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**1: 37P.M.**

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A November 15, 2005 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

**MOTION: Gabriel**

I move to approve the Board of Adjustment November 15, 2005 public hearing minutes.

**SECONDED: Hill**

**AYES: 5 – White, Hill, Gabriel, Johnson, Richmond**

**NAYS: 0 -**

**MOTION PASSED: 5– 0 (unanimously)**

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**FILE NUMBER:** BDA 056-043(J)

**BUILDING OFFICIAL'S REPORT:**

- Application of Fredrick Baron, represented by Ed Simons, for a special exception to the single family regulations at 5950 Deloache Avenue. This property is more fully described as Lot 1 in City Block 5617 and is zoned R-1ac(A) which limits the number of dwelling units to one. The applicant proposes to construct a second dwelling unit which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-4.209 (b) (6) (E) (i) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 5950 Deloache Avenue

**APPLICANT:** Fredrick Baron  
Represented by Ed Simons

**REQUEST:**

- A special exception to the single family use regulations is requested in conjunction with constructing an additional “dwelling unit” on a site developed with a single family home. The proposed additional “dwelling unit” in this appeal is a 2-story garage/ guest house structure.

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

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

### **GENERAL FACTS:**

- “Single family” use is defined in the Dallas Development Code as “one dwelling unit located on a lot,” however, the code allows the Board of Adjustment to grant a special exception to this provision to allow an additional dwelling unit when, in their opinion, the additional dwelling unit will not:
  - 1) be used as rental accommodations; or
  - 2) adversely affect neighboring properties.
- The subject site is 8,497 square feet in area and developed with, according to DCAD records, a single family home built in 1997 with 15,254 square feet of living area.
- The scaled site plan indicates that the additional “dwelling unit” structure is rectangular shaped and has a building footprint of approximately 84’ x 25’ or is about 2,100 square feet in area.
- The site plan indicates that the additional “dwelling unit” structure will be located 87’ from the nearest property line which is on the east side.
- The proposed “dwelling unit” structure will be located approximately 100 feet from the main structure.
- The submitted elevation indicates that the 2-story additional “dwelling unit” structure will be approximately 25’ in height.
- Floor plans indicate the following spaces within the proposed detached 2-story additional “dwelling unit” structure on the site:
  - two 1-car garages, an “archway”, halls, closets, and an office on the 1<sup>st</sup> floor; and
  - a kitchen, living room, halls, closets, 2 baths, and 2 bedrooms on the 2<sup>nd</sup> floor.
- If this request is granted, a completed deed restriction stating that the additional dwelling unit on the site will not be used for rental accommodations must be submitted to the Board Administrator, approved by the City Attorney’s Office as to form, and filed in the deed records of the applicable county (in this case, Dallas County) before the applicable permits for this additional dwelling unit can be issued by the City.

### **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-10(A) (Single family district 10,000 square feet)  
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:**

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|---|---|
| 1. BDA 978-237<br>8831 Preston Road<br>(the request site) | On September 21, 1998, the Board of Adjustment granted a request for (1) a variance of 4 feet to the front yard setback regulations in conjunction with erecting light poles and fixtures, and (2) a special exception of 4 feet to the fence regulations to construct an 8 foot fence in the front yard. |
|---|---|

**Timeline:**

- October 20, 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.
- Nov. 19, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Nov. 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and

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

Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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, Senior Planner Hiromoto, the Development Services Department Transportation Engineer; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The proposed 2-story “dwelling unit” structure appears to meet all setback, lot coverage, and height regulations.
- If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and site plan, the proposed “dwelling unit” structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 2-story garage/ guest house structure.

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

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

**MOTION: Gabriel**

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required; and
- The property must be deed restricted to prohibit the additional dwelling unit on the site from being used as rental accommodations.

**SECONDED:** Hill

**AYES:** 5 – White, Hill, Gabriel, Johnson, Richmond

**NAYS:** 0 -

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 056-049(J)

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Reeves for a special exception to the visibility obstruction regulations at 2425 N. Houston Street. This property is more fully described as a tract of land in part of City Blocks J/383 and J/384 and is zoned PD-582 which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a building partially in the visibility corner clip which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-4.602 (d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 2425 N. Houston Street

**APPLICANT:** Robert Reeves

**REQUEST:**

- Special exceptions to the visibility obstruction regulations are requested in conjunction with maintaining seven columns that are located in the 20'-visibility triangle adjacent to drive approaches on N. Houston Street. The site is currently being developed with hotel and multifamily uses.

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

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

**GENERAL FACTS:**

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - In a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20-foot visibility triangles at drive approaches); and
  - Between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

- The site plan indicates three drive approaches that have a total of seven visibility obstructions caused by portions of the structure.
- East Houston Street is a one-way street with traffic traveling north.
- The thoroughfare plan indicates that East Houston is a principle arterial.
- A 15' wide sidewalk is to be provided adjacent to East Houston.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD 582 (Victory Planned Development District)
- North: PD 582 (Victory Planned Development District)
- South: PD 582 (Victory Planned Development District) and PD 193 I-2 (Oak Lawn Planned Development District Industrial)
- East: PD 193 MF-3 (Oak Lawn Planned Development District Multiple Family)
- West: PD 193 I-3 (Oak Lawn Planned Development District Industrial)

**Land Use:**

The subject site is being developed with a hotel and multifamily uses. The area to the north is developed with a sports arena. The area to the east is developed with multifamily uses. The area to the south and west are undeveloped.

**Zoning/BDA History:**

- |                                    |   |
|------------------------------------|---|
| 1. BDA 012-142<br>2617 Victory Ave | On February 26, 2002, the Board of Adjustment Panel A granted a request for a special exception to the landscape regulations. |
|------------------------------------|---|

**Timeline:**

- October 26, 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.
- Nov. 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Nov. 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 December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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 Hiromoto and the Assistant City Attorney to the Board.

The Development Services Transportation Engineer submitted a comment sheet stating no objection to the request.

December 2, 2005 The applicant submitted additional information on the request including a letter and photos.

**STAFF ANALYSIS:**

- According to the submitted site plans, there are seven portions of the structure under construction within three 20' drive approach visibility triangles:
  - Exhibit B shows two visibility obstructions caused by the hotel structure
  - Exhibit C shows two visibility obstructions caused by the hotel structure
  - Exhibit D shows three visibility obstructions, two caused by the hotel structure and one caused by a column between the drive approaches
- The portions of the structure within the visibility triangles are constructed of concrete. Elevations were not submitted.
- The Development Services Transportation Engineer submitted a comment sheet stating no objection to the request.

If the request is granted, the seven portions of a hotel/multifamily structure would be "excepted" into the East Houston/drive approach 20' visibility triangles.

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**



APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gabriel**

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Hill**

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

NAYS: 0 -

MOTION PASSED: 5- 0 (unanimously)

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FILE NUMBER: BDA 056-051(J)

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Reeves for a variance to the off street parking regulations at 7711-7829 Royal Lane. This property is more fully described as Lot 1 in City Block 3/7288 and is zoned MF-2(A) which requires a 20 foot setback for an enclosed parking space. The applicant proposes to enclose existing carports and provide a 10 foot setback which would require a variance of 10 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 7711-7829 Royal Lane

APPLICANT: Robert Reeves

**REQUEST:**

- A variance to the enclosed parking space regulations of 10' is requested in conjunction with enclosing existing carports for a multifamily use.

**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 existing carports are proposed to be converted to garages and enclose the parking spaces.
- 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 application indicates the proposed garages would provide a 10’ setback to the alley for the enclosed parking spaces.
- A scaled site plan showing the exact location of the proposed garages was not submitted.
- The site is sloped, rectangular in shape (788’ x 125’), and approximately 98,500 square feet in area (2.40 acres).
- DCAD records indicate that the site is developed with a condominium in excellent condition that was built in 1965.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2 (A) (Multifamily Residential)  
North: MF-2 (A) (Multifamily Residential) and PD 569  
South: MF-2 (A) (Multifamily Residential)  
East: MF-2 (A) (Multifamily Residential)  
West: TH-3(A) (Townhouse Residential)

**Land Use:**

The subject site is being developed with a multifamily use. The area to the north is developed with utility uses and institutional uses. The areas to the south and east are developed with multifamily uses and the area to the west is developed with a duplex use.

**Zoning/BDA History:**

There have been no recent Board of Adjustment requests in the immediate area.

**Timeline:**

October 26, 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.

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

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

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code

Specialist, the Development Services Transportation Engineer, Senior Planner Hiromoto, and the Assistant City Attorney to the Board.

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

December 2, 2005 The applicant submitted additional information that includes a letter explaining the request and photos of the request site. (see Attachment A)

### **STAFF ANALYSIS:**

- The plat map indicates the request site is approximately 95,800 square feet.
- The applicant describes on the application that the slope of the lot has an 11% elevation change from the street to the rear of the property.
- The site plan provided does not indicate the area of the proposed garage conversion nor does it show the existing carports.
- The full sized site plan provided is a reduction and the 1":30' scale is inaccurate.
- The elevations submitted are for the townhouse structures. Elevations for neither the existing carports nor the proposed garages were provided.
- The additional information submitted on December 2, 2005 (Attachment A) shows the location of the existing carports that the applicant is seeking to convert to garages.
- The existing carports are open to the alley behind the request site. North of the request site is TXU property and utility lines. Parking spaces are located on the TXU side of the alley.
- The site plan shows dimensions for the parking spaces where the carports exist today to be 16' in length, 12' from the end of the parking spaces to the property line, and that the alley is 12' in width. This provides 28' from the beginning of the parking space to the alley. A 90 degree parking space can be between 18' to 22' in length depending on the width of the space per code. The dimensions of the garage or the carport were not provided, so it is unclear as to the proposed distance from the end of the garage to the alley.
- Attachment A shows a sectioned drawing of the request site showing the slope of the request site, the length of the carports (18') and the distance from the proposed doors to the alley (12'). If this is correct, the variance request should be for 8' for an enclosed parking space.
- 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.
- Granting this variance would allow the construction of garages to encroach 10' into the 20' enclosed parking setback.

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gabriel**

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code. 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 is required;
- Automatic garage doors must be installed and maintained in working order at all times;
- At no time may the area in front of the garages be utilized for parking of vehicles;
- All applicable permits must be obtained

SECONDED: **Hill**

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

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

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**FILE NUMBER:** BDA 056-060(J)

**BUILDING OFFICIAL'S REPORT:**

Application of Kevin Waller for a variance to the front yard setback regulations at 2050 West Northwest Highway. This property is more fully described as a tract of land in City Block C/6489 and is zoned IR which requires a front yard setback of 15 feet. The applicant proposes to construct a building and provide an 8 foot front yard setback which would require a variance of 7 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 2050 West Northwest Highway.

**APPLICANT:** Kevin Waller

**December 13, 2005 Briefing Notes:**

- The applicant submitted a revised site plan at the briefing. The revised site plan showed the correct width of the required dedication, which is 5' and changes the variance request needed from 8' to 5'.

**REQUEST:**

- A variance to the front yard setback regulations of 8' is requested in conjunction with constructing a retail building.

**STANDARD FOR A VARIANCE:**

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

**GENERAL FACTS:**

- A 15'-front yard setback is required in the IR zoning district.
- The request site has three front yards which are adjacent to Northwest Highway, California Crossing, and Newkirk Street.
- The site is flat, irregular in shape (38' x 206' x 247'), and approximately 9,832 square feet in area.
- A scaled site plan has been submitted that indicates the area proposed to be located in the 15'-front yard along California Crossing setback is approximately 800 square feet or 100' x 8' in area.
- The site plan indicates two 15' building lines parallel to California Crossing. One building line shows a 15' setback from the property line and the other building line shows the setback with a 7' dedication for California Crossing widening.
- The original plat filed with Building Inspection shows 40' right-of-way for California Crossing, but currently 50' of right-of-way has been dedicated. The thoroughfare plan calls for a 60' right-of-way for California Crossing. Since the request site would only be responsible for providing half of the 10' of additional right-of-way needed, a dedication of 5' would be required. The building as shown on the site plan only needs a 5' variance.
- The applicant has provided a letter from TxDOT indicating the intent to abandon California Crossing in the future.
- DCAD records indicate that the site is undeveloped.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: IR (Industrial Research)  
North: IR (Industrial Research)  
South: IR (Industrial Research) and IM (Industrial Manufacturing)  
East: IR (Industrial Research) and IM (Industrial Manufacturing)  
West: IR (Industrial Research)

**Land Use:**

The subject site is undeveloped. The area to the areas to the north, east, and west are developed with retail and office uses. The area to the south is developed with a wholesale distribution and storage (auto auction) use.

**Zoning/BDA History:**

There have been no recent Board of Adjustment requests in the immediate area.

**Timeline:**

- Nov. 7, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Nov. 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Nov. 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Development Services Transportation Engineer, Senior Planner Hiromoto, and the Assistant City Attorney to the Board.
- Development Services Transportation Engineer Nguyen submitted a comment sheet that stated no objection if certain conditions are met.

### **STAFF ANALYSIS:**



- Transportation Engineer Nguyen commented that the actual locations and widths of the ingress and egress, the required number and orientation of the stacking spaces will be reviewed during the submittal of the site plan review/development impact review taking into account the possible construction of the free-right-turn land for northbound Newkirk onto Northwest Highway. He also stated that a motion for approval should not be subject to the submitted site plan for this reason.
- The plat map indicates the request site is irregularly shaped and approximately 9,832 square feet.
- The site plan indicates two 15' building lines parallel to California Crossing. One building line shows a 15' setback from the property line and the other building line shows the setback with a 7' dedication for California Crossing widening.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the California Crossing front yard setback would be limited in this case to an area approximately 800 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance of 8' to the front yard setback 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 front yard setback variance of 8' is necessary to permit development of the subject site (that is flat, irregular in shape (38' x 206' x 247'), and approximately 9,832 square feet in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification.
  - The front yard setback variance of 8' would not to be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same IR zoning classification.

Granting this variance would allow an approximately 2,300 square foot proposed retail structure to encroach 8' into the 15' front yard setback.

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gabriel**

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code.

**SECONDED:** Hill

**AYES:** 5 – White, Hill, Gabriel, Johnson, Richmond

**NAYS:** 0 -

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 056-040

**BUILDING OFFICIAL'S REPORT:**

Application of Karen Tellez for a special exception for the handicapped at 5327 Richard Avenue. This property is more fully described as Lot 22 in City Block 21/1941 and is zoned R-7.5(A) which requires a side yard setback of 5 feet. The applicant proposes to maintain a carport for a handicapped person in the required side yard and provide a 1 foot side yard setback which would require a special exception of 4 feet. Referred to the Board of Adjustment in accordance with Section 51A-1.107 (b) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 5327 Richard Avenue

**APPLICANT:** Karen Tellez

**December 13, 2005 Public Hearing Notes:**

- The applicant's representative and an immediately adjacent neighbor submitted documents related to this request in addition to verbal testimony. The applicant's representative testified that the carport on the site was 4" from the side property line. As a result, the request for a special exception of 4' would technically be made to *relocate* the existing carport 8 additional inches from the side property line.

**REQUEST:**

- A special exception for the handicapped is requested in conjunction with maintaining a carport that is located 1' into the site's eastern 5'-side yard setback on a site developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO AFFORD A HANDICAPPED PERSON EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING:**

Section 51A-1.107.(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

## **GENERAL FACTS:**

- A 5'-side yard setback is required in the R-7.5(A) zoning district.
- The existing carport is located 1' from the site's eastern side property line (or 4' into the required 5' side yard setback).
- According to the submitted site plan, the existing carport is about 14'-long and about 11'-wide (or 154 square feet) in area.
- No elevation has been submitted that documents the materials of the carport or its height.
- The subject site is 156' x 50' (or 7,800 square feet) in area.
- According to DCAD, the site is developed with the following:
  - a single family home in "average" condition built in 1930 with 1,756 square feet of living area;
  - a 160 square foot attached carport.
- Building Inspection states that no permit was issued by the City for the existing carport on this site.
- Section 51A-1.10 (b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

A copy of the "handicap" definition from this act was provided to the Board Administrator by the City Attorney's Office. Section 3602 of this act states the following:

"(h) "Handicap" means, with respect to a person -

  1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
  2. a record of having such an impairment, or
  3. being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21)."
- The Building Inspection Development Code Specialist forwarded additional information beyond what was submitted with the original applicant to the Board Administrator (see Attachment A). This information included the following:
  - a revised site plan that located the supporting poles of the carport outside the 25' front yard setback;
  - a copy of a motor vehicle transfer;
  - a copy of an approved application for a disabled person identification and or license plate;
  - copies of "Careflite" receipts;
  - copies of appointments with "Ortho A – Sports Injury Department" of Parkland Health and Hospital System;

- copies of radiology and laboratory results from Parkland Health and Hospital System;
- a letter signed by a doctor documenting the medical condition of Josephina Perez (the owner of the subject site); and
- a letter signed by a clinical coordinator documenting the medical history of Lydia Torres (whose relationship to the owner of the subject site and/or applicant is unknown).

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is 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. Unassigned, 5327 Richard Avenue (the subject site) | On August 16, 2005, the Board of Adjustment Panel A denied a request to waive the filing fee to be submitted in conjunction with a potential board appeal. |
|---|--|

**Timeline:**

- |                 |   |
|-----------------|---|
| October 5, 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.  |
| Nov. 17, 2005:  | The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If any preliminary action is required on a case including but not limited to a fee waiver or waiver of the two year waiting period, the case must be returned to the panel taking preliminary action." |
| Nov. 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 either a request for a special exception to the side yard setback regulations for a carport or a special exception for the handicapped;
- 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 November 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Nov. 22, 2005: Building Inspection forwarded a revised Building Official's Report on this request amending what had been a request for a special exception to the side yard setback regulations for a carport to a special exception for the handicapped per the applicant's representative's request.

Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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 Engineer, the Building Inspection Development Code Specialist, 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.

Nov. 28 & Dec. 6, 2005 The Building Inspection Development Code Specialist forwarded additional information (prepared by the applicant) beyond what was submitted with the original application to the Board Administrator (see Attachment A).

## **STAFF ANALYSIS:**

- Granting this special exception for the handicapped would allow the carport to remain in its current location which is 1' from the site's eastern side property line (or 4' into the required 5' side yard setback).
- As of December 5, 2005, no letters have been submitted in support or opposition to the request.
- The applicant (who is an individual other than the owner of the subject site in this case) has the burden of proof in establishing the following:
  - The special exception (which in this case is requested to retain a carport in a side yard setback) is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit; and
  - there is a person with a "handicap" (as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended) who resides and/or will reside on the site.
- Historically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport's location in the side yard setback; would require the applicant to mitigate any water drainage related issues that the carport may cause on the lot immediately adjacent; and would allow the special exception for as long as a handicapped person resides on the site:
  1. Compliance with the submitted revised site plan is required.
  2. The carport structure must remain open at all times.
  3. There is no lot-to-lot drainage in conjunction with this proposal.
  4. All applicable building permits are obtained.
  5. The special exception expires when a handicapped person no longer resides on the property.

Although staff has also typically suggested that the board impose a condition requiring that the applicant to comply with an elevation that documents the size and materials of the carport, there has been no elevation submitted in conjunction with this appeal.

## **BOARD OF ADJUSTMENT ACTION: December 13, 2005**

**APPEARING IN FAVOR:** Karen Tellez, 5055 Pear Ridge Rd., Dallas, TX

**APPEARING IN OPPOSITION:** Ray Martinez, 1601 Elm St., TX 75077  
Mike Ward, 5331 Richard Ave., Dallas, TX 75206

## **MOTION#1: Hill**

I move to suspend the rules and accept the evidence that is being presented to us today.

**SECONDED: Johnson**

**AYES: 5 – White, Hill, Gabriel, Johnson, Richmond**

**NAYS: 0 -**

MOTION PASSED: 5– 0 (unanimously)

MOTION#2: **Hill**

I move that the Board of Adjustment in Appeal No. **BDA 056-040**, hold this matter under advisement until **January 17, 2006**.

SECONDED: **Johnson**

AYES: 4 – Hill, Gabriel, Johnson, Richmond

NAYS: 1 - White

MOTION PASSED: 4– 1

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FILE NUMBER: BDA 056-041(J)

**BUILDING OFFICIAL'S REPORT:**

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

LOCATION: 7107 Brookshire Circle

APPLICANT: Tom Goodwin

**REQUEST:**

- A special exception to the single family use regulations is requested in conjunction with constructing an additional “dwelling unit” on a site developed with a single family home. The proposed additional “dwelling unit” in this appeal is a 2-story studio/home office structure.

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

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

exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**GENERAL FACTS:**

- This request was approved on May 17, 2005 as a 1-story additional dwelling unit with open storage below. The open storage area was enclosed in construction, and is not in compliance with the May 17<sup>th</sup> approval conditioned on the site plan and elevation. The open storage area being enclosed is the purpose of this application.
- “Single family” use is defined in the Dallas Development Code as “one dwelling unit located on a lot,” however, the code allows the Board of Adjustment to grant a special exception to this provision to allow an additional dwelling unit when, in their opinion, the additional dwelling unit will not:
  - 1) be used as rental accommodations; or
  - 2) adversely affect neighboring properties.
- The subject site is 52,859 square feet (1.21 acres) in area and developed with, according to DCAD records, a single family home that is in very good condition, built in 1957 with 4,417 square feet of living area.
- The site plan indicates that the additional “dwelling unit” structure has a building footprint of approximately 24’ x 42’ or is about 1,000 square feet in area.
- The site plan indicates that the additional “dwelling unit” structure is located 13’ from the nearest property line which in this case is the side property line on the west. This structure is built on top of the existing accessory structure which is 3’ from the west property line. Approximately 8’ of the existing structure is not built upon.
- The submitted elevation indicates that the 2-story additional “dwelling unit” structure is approximately 15’ in height on the southern end of the building and 21’ in height on the northern end due to the slope the lot.
- Floor plans indicate the following spaces within the proposed detached 2-story additional “dwelling unit” structure on the site:
  - a studio/home office, kitchen, bath, and closet on the 1<sup>st</sup> floor.
  - storage space on the basement level.
- The code required deed restriction stating that the additional dwelling unit on the site will not be used for rental accommodations has been filed in the deed records of Dallas County and a copy the submitted to the Senior Planner Hiromoto and Building Inspection.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-16 (A) (Single family district 16,000 square feet)  
North: R-16 (A) (Single family district 16,000 square feet)  
South: R-13 (A) (Single family district 13,000 square feet)  
East: R-16 (A) (Single family district 16,000 square feet)  
West: R-16 (A) (Single family district 16,000 square feet)



**Land Use:**

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

**Zoning/BDA History:**

- |  |   |
|--|---|
| 1. BDA 045-194<br>7101 Brookshire Circle | On May 17, 2005, the Board of Adjustment granted a request for an additional dwelling unit in conjunction with constructing a 1-story studio/home office structure. |
|--|---|

**Timeline:**

- October 11, 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.
- Nov. 17, 2005: The case was assigned to Board of Adjustment Panel A given the site's history with this panel and in order to comply with the Board's Rules of Procedure that state that "if a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."
- Nov. 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;
  - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
  - the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and

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

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

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

**STAFF ANALYSIS:**

- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations. The deed restrictions have been recorded and submitted to the City per the previous condition of approval by the Board.

If the Board were to approve the request, subject to imposing a condition that the applicant comply with the submitted elevation and site plan, the proposed “dwelling unit” structure would be restricted to the specific location, size, and height shown on the plans, which in this case is a 2-story garage/office/studio structure.

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: Tom Goodwin, 7570 Brookshire, Dallas, TX

APPEARING IN OPPOSITION: Beth Mazziotta, 7114 Royal Ln., Dallas, TX

**MOTION: Richmond**

I move that the board of Adjustment, in Appeal No. **BDA 056-041** on application of Tom Goodwin, **deny** the request of this applicant to maintain an additional dwelling unit on the property **without prejudice**, because our evaluation of the property, the testimony presented to us, and the facts that we have determined show that the additional dwelling unit on the site will adversely affect neighboring properties.

**SECONDED: Johnson**

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

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

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**FILE NUMBER:** BDA 056-045

**BUILDING OFFICIAL'S REPORT:**

Application of Joshua Correa, represented by Allan Ross, for a special exception to the fence height regulations at 5952 Walnut Hill Lane aka 9625 Preston Road. This property is more fully described as a tract of land in City Block 5611 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 14 foot 6 inch fence in the front yard which would require a special exception of 10 feet 6 inches. Referred to the Board of Adjustment in accordance with Section 51A-4.602 (a) (6) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 5952 Walnut Hill Lane aka 9625 Preston Road

**APPLICANT:** Joshua Correa  
Represented by Allan Ross

**REQUEST:**

- Originally, a special exception to the fence height regulations of 8' had been requested in conjunction with constructing and maintaining the following on a site being developed with a single family home:
  - Primarily a 6' 4" high stone wall\* with approximately 7' high stone columns with 11' 4" high gates (one gate on Preston Road, the other gate on Walnut Hill Lane) with 12' high entry columns in the 40'-Preston Road and Walnut Hill Lane front yard setbacks.
- \* Each entry gate was proposed to be flanked by a curved entry wing wall that ranges from 7' 6" to 10' 2" in height.

However on November 28, 2005, a revised site plan and elevations were submitted that created a need to increase the special exception to 10' 6" (see Attachment A). The special exception was amended to account for entry columns that were raised from 12' to 14' 6" 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 fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The following information was gleaned from the originally submitted site plan:
  - The proposed wall is to be located parallel to Preston Road and Walnut Hill Lane with recessed entryways (one entryway on Preston Road, another entryway on Walnut Hill Lane).
  - The proposed wall to be approximately 206 feet long along Preston Road and approximately 211' along Walnut Hill Lane.
  - The proposed wall to be located approximately on the Preston Road and Walnut Hill Lane property lines and approximately 12' from the pavement lines of these streets.
  - The proposed Walnut Hill Lane entry gate to be located about 16' from the property line and approximately 24' from the projected pavement line.
  - The proposed Preston Road entry gate to be located about 22' from the property line and approximately 34' from the projected pavement line.
- No landscape materials had been detailed or specified on the originally submitted site plan.
- The proposed wall would be located on a site where two single family homes would have direct/indirect frontage to the proposed fence along Walnut Hill Lane, neither of which have a fence, and where no single family home would have frontage to the wall along Preston Road. (The site has Preston Road frontage because it is the shorter of the two sides of the corner lot subject site). The home immediately east of the subject site has an approximately 7' high solid wood wall that is most likely permitted by right since its Preston Road "frontage" is a side yard.
- The Board Administrator conducted a field visit of the site and surrounding area along Walnut Hill Lane and noted the following which appeared to be located in the front yard setback (Note that these locations and dimensions are approximations):
  - a 6'-high solid stone wall west of the site (with no "BDA History" on record); and
  - a 7'-high solid stucco wall two lots west of the site (with no "BDA History" on record).
- The Board Administrator conducted a field visit of the site and surrounding area along Preston Road and noted no fences/walls which appeared to be located in the front yard setback (Note that a 6'-high open wrought iron fence behind a hedge south of the site and an approximately 7' high solid wood wall appear to be in side yards where a fence can reach 9' in height by right.
- On November 28, 2005, the owner of the subject site submitted information beyond what was submitted with the original application (see Attachment A). This information included revised a revised site plan and revised fence elevations. The following amendments appear to have materialized on the revised site plan from what was conveyed on the originally submitted site plan:
  - a curved portion of the wall near the intersection of Preston Road and Walnut Hill Lane had been located further towards the home on the subject site.

- landscape materials have been added at the entryways and near the intersection of Preston Road and Walnut Hill Lane (including a boxwood hedge, ground cover, and seasonal flowers).

The following amendments appear to have materialized on the revised fence elevations from what was conveyed on the originally submitted elevations:

- entry gate columns have been raised from 12' to 14' 6".
- On December 2, 2005, another revised site plan and elevations were submitted (see Attachment B). The set of plans submitted on December 2<sup>nd</sup> included full a full scale site plan and elevations as well as reductions.
- According to the applicant's newly designated representative (as of December 1, 2005), the following changes were made to the site plan that was submitted on November 28<sup>th</sup>:
  - provisions of a wall ranging from 6' 5" – 8' 5" in height with columns ranging from 7' 3" – 9' 3" in height were added in the front yard setbacks on Preston Road and Walnut Hill Lane, located *perpendicular* to these streets; and
  - a description of the existing fence on the site (to be replaced by the proposed wall) was provided on the site plan: a 6' high wall with 6' 5" high columns, and 8' 6" high gates.
- According to the applicant's newly designated representative (as of December 1, 2005), the following changes were made to the elevations that were submitted on November 28<sup>th</sup>:
  - provision of a finial description was added whereby the entry gate columns would be capped with 30 inch "cap, finial, or lantern" not exceeding a total height of 14' 6".

**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 being developed with a single family home. The areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

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

## **Timeline:**

- October 26, 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.
- Nov. 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Nov. 18, 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 November 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
  - the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- Nov. 28, 2005 The owner of the subject site submitted additional information beyond what was submitted with the original application (see Attachment A).
- Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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 Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.



**MOTION: Hill**

I move that the Board of Adjustment in Appeal No. **BDA 056-045**, on application of K.C. Chami, **grant** the request of this applicant to construct a 14 foot 6 inch high fence on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan and elevations dated 12/2/05 is required.
- The gazebo structure on the site plan is not part of this approved request.

**SECONDED: Johnson**

**AYES:** 4 –Hill, Gabriel, Johnson, Richmond

**NAYS:** 1 - White

**MOTION PASSED:** 4– 1

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**FILE NUMBER:** BDA 056-046

**BUILDING OFFICIAL'S REPORT:**

Application of Dallas Buzz LTD, represented by Will Pinkerton, for a special exception to the sign regulations at 1111 South Akard Street. This property is more fully described as Lot 1A in City Block A/441 and is zoned PD-317 which requires any alterations to a non-conforming sign to comply with section 51-A 7.703 (c). The applicant proposes to relocate and reduce the square footage of a non-conforming detached sign which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-7.703 (c) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 1111 South Akard Street.

**APPLICANT:** Dallas Buzz LTD  
Represented by Will Pinkerton

**REQUEST:**

- A special exception to the sign regulations is requested to remove one face of an existing billboard and to relocate the remaining poles and board approximately 18' to the south and 6' to the west of the existing billboard's current location. The subject site is currently undeveloped but proposed to be developed as a 49-unit condominium structure.



**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS TO AUTHORIZE THE REMODELING, RENOVATION, OR ALTERATION OF A NON-CONFORMING SIGN:**

The Board of Adjustment may authorize the remodeling, renovation, or alteration of a non-conforming sign when: 1) the public convenience and welfare will be substantially served; 2) the appropriate use of the neighboring area will not be substantially and permanently injured; 3) some non-conforming aspect of the sign is being reduced; and 4) the period of time allowed for the owner of the sign to recoup his investment will not be extended.

**GENERAL FACTS:**

- Section 51A-7.703(c) of the Dallas Development Code provides the board of adjustment the ability to authorize special exceptions to the regulations established in this article (the sign regulations) for non-conforming signs legally erected or maintained prior to April 30, 1973, when in its judgment the public convenience and welfare will be substantially served and appropriate use of the neighboring property will not be substantially and permanently injured.
- Specifically, the Board of Adjustment may authorize the remodeling, renovation, or alteration of a sign when some non-conforming aspect of the sign is thereby reduced and when the period of time allowed for the owner of the sign to recoup his investment is not thereby extended.
- The applicant's representative has submitted a sign permit establishing that the billboard on the subject site was constructed in 1969.
- The applicant's representative has stated the following:
  - Relocating the billboard approximately 18' to the south and 6' to the west will allow the construction of condominiums on the site.
  - The nonconforming aspect of the billboard will be reduced by one 300 square foot board (the north face of the existing billboard on the site will be removed).
  - Once the construction of the condos is complete, the remaining south face and poles that were there originally will be placed at the new location which will be 18' to the south and 6' to the west of the existing location.
- A scaled sign elevation has been submitted with the application. This elevation establishes that the sign is approximately 300 square feet in area (or 24' x 12.5') located atop approximately 16' high poles.
- A scaled site plan has been submitted that denotes the location of the existing billboard columns and the location of the "relocated billboard columns."
- 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 provided further details about the request; and
  - four letters from neighbors/owners who support the request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD No. 317(Planned Development District)  
North: PD No. 317(Planned Development District)  
South: PD No. 317(Planned Development District)  
East: PD No. 317(Planned Development District)  
West: PD No. 317(Planned Development District)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 056-008, 1111 S. Akard Street (the subject site) On October 19, 2005, the Board of Adjustment Panel B granted a request for a special exception to the parking regulations of 23 spaces. The board imposed the following condition with this request: the special exception shall automatically and immediately terminate if and when the multifamily use on the site is changed or discontinued. The case report states that the request was made in conjunction with constructing and maintaining a 49-unit condominium.

**Timeline:**

- October 27, 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.
- Nov. 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A. Although Board of Adjustment Panel B granted a parking special exception on the site in October of 2005, the random assignment was made since this appeal is for a special exception to the sign regulations. (Section 9 (k) of the Board of Adjustment Working Rule of Procedure states "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.")
- Nov. 18, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the November 23rd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

- Nov. 23, 2005      The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).
- Nov. 28, 2005:      The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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 Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.
- Nov. 28, 2005      The applicant's representative amended the originally submitted elevation plan by adjusting the scale to correctly convey dimensions on shown on this elevation plan.
- Dec. 1, 2005:      The Development Services Senior Engineer forwarded a review comment sheet with the following note: Site plan should show existing and proposed locations, and whether it will be in the 45' x 45' intersection visibility triangle. (Note that the Board Administrator has reviewed the submitted site plan does to establish that the plan does show the existing and proposed locations of the sign, and that the sign in the existing and proposed locations is outside the 45' visibility triangle).

## **STAFF ANALYSIS:**

- A scaled site plan has been submitted that denotes the location of the existing sign and its relocation on the site.
- A revised scaled elevation has been submitted that establishes that the sign is approximately 300 square feet in area (or 24' x 12.5') located atop approximately 16' high poles.
- The applicant's representative has submitted a document stating the following:
  - the north face of the billboard will be removed;
  - the alteration to the existing billboard will only involve relocating the billboard 18' to the south and 6' to the west;
  - the alteration will not increase the size of the billboard or change the pole material; and
  - "the poles that were there originally will be placed in the new location."
- The applicant has the burden of proof in establishing the following:
  - 1) the public convenience and welfare will be substantially served;
  - 2) the appropriate use of the neighboring area will not be substantially and permanently injured;
  - 3) some non-conforming aspect of the sign is being reduced; and
  - 4) the period of time allowed for the owner of the sign to recoup his investment will not be extended.
- If the Board determines that the special exception is justified, staff suggests that the Board impose the following conditions:
  1. Compliance with the submitted site plan and revised elevation is required.
  2. A sign face is limited to the south side of the relocated billboard.
  3. The poles that support the existing billboard on the site should be utilized to mount the relocated billboard on the site.

## **BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: Will Pinkerton, 1533 W. Colorado Blvd, Dallas, TX  
Zad Roumaya, 8359 San Fernando Way, Dallas, TX

APPEARING IN OPPOSITION: No one

## **MOTION: Richmond**

I move that the Board of Adjustment in Appeal No. **BDA 056-046**, on application of Dallas Buzz Ltd, **grant** the request of this applicant to remodel, renovate, or alter their nonconforming sign as a special exception to the sign regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that the public convenience and welfare will be substantially served, the appropriate use of the neighboring area will not be substantially and permanently injured by this special exception, some nonconforming aspect of the sign is being reduced, and the period of time allowed for the owner of the sign to recoup his investment will not be extended. I

further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required
- A sign-face is limited to the south side of relocated billboard.
- The poles that support the existing billboard on the site should be utilized to mount the relocated billboard.

**SECONDED: Gabriel**

**AYES:** 5 – White, Hill, Gabriel, Johnson, Richmond

**NAYS:** 0 -

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 056-047(J)

**BUILDING OFFICIAL'S REPORT:**

Application of Reinhard Ziegler, Elizabeth Newman Custom Homes, represented by Leslie Harlan for a variance to the parking regulations at 2819 Alderson Street. This property is more fully described as Lot 3 in City Block 2842 and is zoned R-7.5(A) which requires a 20 foot setback for an enclosed parking space. The applicant proposes to construct a garage and provide a 10 foot setback which would require a variance of 10 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d)(10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 2819 Alderson Street

**APPLICANT:** Reinhard Ziegler, Elizabeth Newman Custom Homes  
Represented by Leslie Harlan

**REQUEST:**

- A variance to the enclosed parking space regulations of 10' is requested in conjunction with constructing a garage.

**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 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 site plan indicates the proposed garage would provide a 10’ setback to the alley. The garage is proposed to have vehicular access from the alley.
- The scaled site plan shows the garage will have a building footprint of 20’ x 19’ or 380 square feet and provide a 5’ building separation between the garage and single family structure.
- The proposed addition is to be located 10’ from the site’s nearest property line which is the south side property line.
- The site is flat, rectangular in shape (70’ x 100’), and approximately 7,000 square feet in area.
- A typical lot size in R-7.5 (A) zoning district is 7,500 square feet for single family structures.
- DCAD records indicate that the site is undeveloped.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

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

#### **Land Use:**

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

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

There have been no recent Board of Adjustment requests in the immediate area.

### **Timeline:**

October 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.

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

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

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the December 2<sup>nd</sup> 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 December public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

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

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

**STAFF ANALYSIS:**

- The plat map indicates the request site is approximately 7,000 square feet.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the amount of encroachment into the enclosed parking space setback would be limited in this case to an area approximately 200 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance of 10' to the enclosed parking setback 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 enclosed parking setback variance of 10' is necessary to permit development of the subject site (that is flat, rectangular in shape (70' x 100'), and approximately 7,000 square feet in area) that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  - The enclosed parking setback variance of 10' would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- Granting this variance would allow the construction of a garage to encroach 10' into the 20' enclosed parking setback.
- 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: December 13, 2005**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Johnson**



I move that the board of Adjustment, in Appeal No. **BDA 056-047**, on application of Elizabeth Newman Custom Homes, **deny** the variance requested by this applicant **without prejudice**, because our evaluation of the property, the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

**SECONDED: Gabriel**

**AYES: 5 – White, Hill, Gabriel, Johnson, Richmond**

**NAYS: 0 -**

**MOTION PASSED: 5– 0 (unanimously)**

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**FILE NUMBER: BDA 056-024**

**BUILDING OFFICIAL'S REPORT:**

Application of R. Leck Heflin/Waterside Properties for a special exception to the fence regulations at 5833 Woodland Drive. This property is more fully described as a tract of land in City Block 5615 and is zoned R-1Ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 11 foot fence in the front yard setback which would require a special exception of 7 feet. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION: 5833 Woodland Drive**

**APPLICANT: R. Leck Heflin/Waterside Properties**

**December 13, 2005 Public Hearing Notes:**

- The applicant submitted a revised site plan/elevation that reduced the height and amount of solid material of the proposal from what was originally submitted.

**REQUEST:**

- A special exception to the fence height regulations of 7' is requested in conjunction with constructing and maintaining the following in the 40' Woodland Drive front yard setback on a site that is undeveloped:
  - an 8' high wrought iron and stone fence/wall with 8' 4" high columns; and
  - two, 11' high arched wrought iron entry gates with 11' high entry columns.

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

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

**GENERAL FACTS:**

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The following additional information was gleaned from the submitted site plan/elevation:
  - The fence/wall is to be approximately 275 in length parallel to Woodland Drive with two recessed entryways.
  - Of the fence/wall's approximately 275' length, about 100' will be of open wrought iron material and about 175 will be of solid stone material.
  - The fence/wall is to be located approximately 10' from the property line (or approximately 21' from the pavement line).
  - The gates are to be located approximately 21' from the property line (or approximately 32' from the pavement line).
- Neither a site plan with landscape materials nor a landscape plan has been submitted in conjunction with the application.
- Two single family homes will have direct frontage to the proposed fence/wall one of which does not have a fence in its front yard, the other which appears to have a 4' high fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence that appeared to be above 4' in height and located in a 40' front yard setback in this block of Woodland Drive from Douglas Avenue to Preston Road: an approximately 6.5 high open wrought fence and solid brick wall (located behind significant landscape materials) immediately west of the site (and what appears to be the result of board action made in conjunction with BDA 86-197).
- As of December 2, 2005, no additional information had been submitted by the applicant's representative.

**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 undeveloped. The areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

1. BDA 86-197, 9006 Douglas Avenue (the lot immediately west of the subject site)

On September 9, 1986, the Board of Adjustment granted a request to the fence height special regulations of 3' 10". The board imposed the following conditions with the request: compliance with notations on a site plan marked "Exhibit A" is required and "that the landscape submitted the Board be used." The case report discusses in its "Staff Comments" section that the fence along Woodland Drive to be setback 8' from the property line to allow for landscaping (which would reduce the impact of the solid fence on the street" with the remainder of the fence along Woodland Drive and Douglas Avenue "should be wrought iron to reduce the "solidness" of the fence."

**Timeline:**

- Sept. 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.
- Oct. 20, 2005:      The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- Oct. 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 October 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
  - the November 4<sup>th</sup> 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 November public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

October 31, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Subdivision and Plats Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, 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.

Nov. 15, 2005 The Board of Adjustment conducted a public hearing on this application and delayed action until December 13, 2005.

Nov. 21, 2005: The Board Administrator wrote the applicant a letter that conveyed the following information:

- that the board delayed action until December 13th;
- the November 23rd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket; and
- the December 2<sup>nd</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials.

Nov. 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December 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 Engineer, the Building Inspection Development Code Specialist, 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.

**STAFF ANALYSIS:**

- A scaled site plan/elevation has been submitted that document the locations of the proposed fence/wall, columns, and gates relative to the property line and pavement line. The site plan also clearly shows the length of the proposed fence/wall relative to the lot.
- A scaled site plan/elevation has been submitted that documents the height of the proposed fence/wall (8'), columns (8' 4"), entry gates and entry gate columns (11'). The site plan/elevation also documents the building materials of the fence/wall (stone and wrought iron).
- The proposal would be located immediately across from two single family homes one of which does not have a fence in its front yard, the other which appears to have a 4' high fence in its front yard.
- As of December 5th, the applicant's representative had submitted a site plan signed by 3 property owners in support of the request, and 1 letter had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence/wall, columns, and gates that are proposed to exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 7' with conditions imposed that the applicant complies with the submitted site plan/elevation would assure that the proposed fence/wall, columns, and gates are constructed and maintained as shown on this document.

**BOARD OF ADJUSTMENT ACTION: November 15, 2005**

APPEARING IN FAVOR: Leck Heflin, 1009 Shadow Ridge, Azle, TX 76020  
Stephen H Collins, 6114 Northwood, Dallas, TX 75225

APPEARING IN OPPOSITION: Lani Geiger, 11017 Turtle Creek, Frisco, TX 75035

MOTION: **Jaffe**

I move that the Board of Adjustment in Appeal No. **BDA 056-024**, hold this matter under advisement until **December 13, 2005**.

SECONDED: **Gabriel**

AYES: 5 – White, Hill, Gabriel, Jaffe, Griggs

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: December 13, 2005**

APPEARING IN FAVOR: Leck Heflin, 1009 Shadow Ridge, Azle, TX 76020

APPEARING IN OPPOSITION: Lani Geiger, 11017 Turtle Creek, Frisco, TX 75035

MOTION: Richmond

I move that the Board of Adjustment in Appeal No. **BDA 056-024**, on application of R. Leck Heflin/Waterside Properties, **grant** the request of this applicant to construct a 9 foot high fence on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan/elevation dated 12/09/05 is required.

SECONDED: **Gabriel**

AYES: 5 – White, Hill, Gabriel, Jaffe, Griggs

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

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MOTION: **Johnson**

I move to adjourn this meeting.

SECONDED: **Hill**

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

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

**4:11 P.M.** - Board Meeting adjourned for December 13, 2005.

\_\_\_\_\_  
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.