

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, OCTOBER 17, 2005

Briefing: 10:00 A.M. 5/E/S
Public Hearing: 1:00 P.M. COUNCIL CHAMBERS

Purpose: To take action on the attached agenda, which contains the following:

- 1) Zoning Board of Adjustment appeals of cases the Building Official has denied.
- 2) And any other business that may come before this body and is listed on the agenda.

*** All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

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10-17-2005

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, OCTOBER 17, 2005
AGENDA

BRIEFING	Room 5ES	10:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

Donnie Moore, Chief Planner
Jennifer Pitner, Senior Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the Monday, September 19, 2005 Board of Adjustment Public Meeting Minutes	M1
BDA 034-183	1125 E. Red Bird Lane REQUEST: Application of Beth-Eden Baptist Church, represented by Jesse Lane, to waive the two year limitation on a rear yard variance that was denied without prejudice	M2

UNCONTESTED CASES

BDA 056-004	6700 Fisher Road REQUEST: Application of Len-Mac Development Corporation, represented by Robert Baldwin, for a variance to the front yard setback regulations	1
BDA 056-009	4407 Woodfin Drive REQUEST: Application of Joe W. and Donna J. Walkoviak, represented by James B. Harris, for a variance to the off-street parking regulations	2

HOLDOVER CASES

BDA 045-271	5310 Harvest Hill Road REQUEST: Application of Carlyle Toll Hill L.P., represented by Ryan Bibb Consultants for a special exception to the sign regulations	3
BDA 045-275	10727-35 Camellia Drive REQUEST: Application of Peter Kavanagh, Zone Systems Inc., for special exceptions to the fence and visibility obstruction regulations	4
BDA 045-286	3424 Gillespie Street REQUEST: Application of A. Winston Puig for a special exception to the fence regulations	5
BDA 045-294	3627 Dickason Avenue REQUEST: Application of David Adams, represented by Michael R. Coker (Michael R. Coker Company, Inc.), for a special exception to the fence regulations and special exceptions to the visibility obstruction regulations	6

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C September 19, 2005 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 034-183

REQUEST: To waive the two year limitation on a variance to the rear yard setback regulations of 18 feet that was denied with prejudice on August 16, 2004

LOCATION: 1125 E. Red Bird Lane

APPLICANT: Beth-Eden Baptist Church, represented by Jesse Lane

STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION:

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to board action:
 - Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
 - If the board renders a final decision of denial without prejudice, the two year limitation is waived.
 - The applicant may apply for a waiver of the two year limitation in the following manner:
 - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
 - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outline in the code.
- On August 30, 2004, the applicant's representative submitted two documents to the Board Administrator:
 - A copy of "Plaintiff's Original Petition" (Jesse Lane v. City of Dallas) filed in District Court on August 27, 2004 (see Attachment A for the first page of this document); and
 - a letter to the Board Administrator requesting that he place a request for a waiver of the two year limitation for case BDA 034-183 (see Attachment A).
- The applicant's representative seeks a waiver of the two year time limitation on a variance to the rear yard setback regulations of 18' that was denied by Board of

Adjustment Panel C on August 16, 2004. The case report on this appeal stated that “The applicant proposes to maintain an approximately 850 square foot addition made to a church (Beth Eden Baptist Church) several years ago, and to maintain a detached storage building. The addition and outbuilding are located as close as 2’ from the rear property line when a 20’ rear setback is required for structures that are adjacent to or across from an alley in the CR zoning district.”

- On September 28, 2005, the City Attorney’s Office informed the Board Administrator that the applicant’s District Court appeal had been dismissed and that the Board of Adjustment had therefore regained jurisdiction to consider the applicant’s request for waiver of the two year time limitation.
- After several failed attempts to reach the applicant’s representative by phone, and an unreturned message left to the pastor of the church, the Board Administrator wrote the applicant’s representative (and copied the pastor of the church) a letter in response to the time waiver request on October 3, 2005 (see Attachment B). The letter and enclosures conveyed the following information:
 - A copy of the August 19, 2004 action letter documenting the action of the board on the appeal made in BDA034-183;
 - the public hearing date that the request will be considered;
 - 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 7th 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 October public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- As of October 7, 2005, no additional information has been submitted.

FILE NUMBER: BDA 056-004

BUILDING OFFICIAL'S REPORT:

Application of Len-Mac Development Corporation, represented by Robert Baldwin, for a variance to the front yard setback regulations at 6700 Fisher Road. This property is more fully described as Lot 16 in City Block 5424 and is zoned R-7.5 (A) which requires a 30 foot front yard setback (due to a platted building line along Santa Anita Drive). The applicant proposes to construct a single family dwelling and provide a 9 foot front yard setback which would require a variance of 21 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: 6700 Fisher Road

APPLICANT: Len-Mac Development Corporation
Represented by Robert Baldwin

REQUEST:

- A variance to the front yard setback regulations of 21' is requested in conjunction with constructing an approximately 2,300 square foot single family home on a site that is undeveloped.

STANDARD FOR A VARIANCE:

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

GENERAL FACTS:

- The site has two front yard setbacks: one 25' front yard setback on Fisher Road, and one 30' front yard setback on Santa Anita Drive.
- A 25'-front yard setback is required in the R-7.5(A) zoning district. However, in this particular case, a 30' front yard setback is required along Santa Anita Drive since the lots to the south and west of the site are imposed with a 30' platted building line.
- The applicant is proposing to provide a 9' front yard setback along Santa Anita Drive since the single family home is proposed to be located 21' from the front property line. (The proposed location of the single family home is in compliance with the 25' front yard setback on Fisher Road).
- The Dallas Development Code states the following with regard to front yard provisions for residential district:
 - If a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations. If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by this section, and the longer frontage is governed by side yard regulations. Notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.
- The site's longer frontage is along Santa Anita Drive, however, this longer frontage is deemed a front yard setback in order to maintain the established setback of lots/homes along this street to the southwest that "front" Santa Anita Drive.
- According to the submitted site plan, the proposed single family home is approximately 30' wide and approximately 75' long. The area of the proposed home in the Santa Anita Drive 30 foot front yard setback is approximately 75' x 21' or 1,575 square feet in area.
- The subject site is zoned R-7.5(A), is flat, rectangular in shape (140' x 53'), and approximately 7,420 square feet in area.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included a letter that provides further details about the request and why it should be granted.

BACKGROUND INFORMATION:

Zoning:

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

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:

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

Timeline:

Sept. 1, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

Sept. 22, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

Sept. 23, 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 September 30th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the October 7th 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 October public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

October 3, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The subject site is zoned R-7.5(A), is flat, rectangular in shape (140' x 53'), and approximately 7,420 square feet in area.
- The site has two front yard setbacks: a 25' front yard setback along Fisher Road, and a 30' front yard setback along Santa Anita Drive.
- An 18'-wide area for development remains on the 53'-wide site once a 30' front yard setback is accounted for on the northwest side of the site, and a 5' side yard setback is accounted for on the southeast side of the site. According to the applicant, an 18'-wide building pad is not wide enough to accommodate a 20'-wide garage that is need to house the required off-street parking.
- If the Board were to grant the front yard variance request, subject to the submitted site plan, the site could be developed with a single family structure that (according to the dimensions taken from the submitted site plan) will have a building footprint of about 2,300 square feet (75' x 31'). The area shown on this plan that encroaches into the Santa Anita Drive 30' front yard setback is approximately 1,575 square feet (or 75' x 21') resulting in a 9' front yard setback.

FILE NUMBER: BDA 056-009

BUILDING OFFICIAL'S REPORT:

Application of Joe W. and Donna J. Walkoviak, represented by James B. Harris, for a variance to the off-street parking regulations at 4407 Woodfin Drive. This property is more fully described as Lot 8 in City Block A/5552 and is zoned R-10(A) which requires a 20 foot setback for an enclosed parking space. The applicant proposes to construct an addition and provide an 8 foot setback which would require a variance of 12 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: 4407 Woodfin Drive

APPLICANT: Joe W. and Donna J. Walkoviak
Represented by James B. Harris

REQUEST:

- A variance to the off-street parking regulations of 12' is requested to construct an addition on a single family home with an enclosed parking space that is less than 20' from the Manchester Drive right-of-way line.

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 requires that 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 originally submitted site plan had indicated a dimension that the enclosed parking space (in the proposed attached garage structure) was to be located 10' from the Manchester Drive right of way line on the west side of the site (or about 30' from the projected Manchester Drive pavement line). However, upon scaling the actual dimensions of the scaled originally submitted site plan (where 1" = 10'), the enclosed parking space (in the proposed attached garage structure) was shown to be located 8' from the Manchester Drive right of way line on the west side of the site (or about 28' from the projected Manchester Drive pavement line).

A letter and revised site plan was submitted on September 30th (see Attachment A). The letter indicated that the 10' dimension on the originally submitted plan was "at the wrong point on the drawing" and that the distance from the addition to the property line paralleling Manchester "will be 8.2 feet so the addition lines up to the house." The revised site plan indicates this 8.2 foot distance (and a 28.2' distance from the enclosed parking space to the Manchester Drive pavement line).

- The subject site is zoned R-10(A), is flat, rectangular in shape (229' x 110'), and approximately 25,000 square feet in area. Both the originally submitted and revised site plan indicates an "Existing 24" Pecan" tree in the back yard of the site, and the application states that "the location of existing protected trees and the layout of existing structures on the lot prevents this lot from being developed as have others in districts with the same zoning classification."
- According to DCAD records, the site is developed with the following:
 - a single family home built in 1995 that is in "excellent" condition with 5,622 square feet of living area;
 - a 602 square foot attached garage;
 - a pool; and
 - a 335 square foot attached garage.
- According to dimensions taken by the Board Administrator off of the submitted site/floor plan, the proposed addition footprint would be approximately 1,925 square feet in area (or 55' x 35') and would include in addition to a one-bay vehicular garage, a storage room, an exercise room, a bathroom, a bedroom, a living room, and a kitchen.
- The applicant could construct the addition as planned by leaving the proposed parking space unenclosed if the variance were to be denied. The need for this parking variance is merely to allow the parking space in the proposed addition to be enclosed with a garage door.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - two letters that provide further details about the request;
 - a revised site plan; and

- photos of the house on the subject site, the Pecan tree in the site's back yard; and a house to the north of the subject site that the applicant's representative shows precedent in the neighborhood for garages facing Manchester with what appears to be less than 20 feet of distance from the property line, as opposed to the street curb. (These loose photographs will be available for review at the briefing/public hearing).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- Sept. 2, 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.
- Sept. 22, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- Sept. 23, 2005: The Board Administrator contacted the applicant's representative's assistant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;

- the September 30th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the October 7th 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 October public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Sept. 30 & Oct. 7, 2005 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

October 7, 2005A The Development Services Senior Engineer submitted a review comment sheets with the following comments:

1. "Manchester Drive is not planned for the street pavement to be widened.
2. Manchester Dr. has no existing sidewalk.
3. The site plan shows a sliding gate 8' in front of the garage door, and 20' from the street curb.
4. A regular-size vehicle (defined as having a length of 17' 10") parking or stopping in front of this gate may block pedestrian walking along the parkway."

STAFF ANALYSIS:

- The subject site is zoned R-10(A), is flat, rectangular in shape (229' x 110'), and approximately 25,000 square feet in area. Both the originally submitted and revised site plan indicates an "Existing 24" Pecan" tree in the back yard of the site, and the application states that "the location of existing protected trees and the layout of existing structures on the lot prevents this lot from being developed as have others in districts with the same zoning classification."
- The submitted revised site plan indicates if the existing parking space were to be enclosed, there would be about a distance of 28.2' from the garage door to the Manchester Drive pavement line – a distance that would accommodate the length of

most vehicles as they would enter/exit the enclosed parking space/garage from the street.

- The applicant's representative has stated that 20 of the thirty feet of space described on the site plan between the back of the curb and the face of the garage door is city right-of-way dedicated for Manchester Drive when the city first platted the area in 1946 – a plat that dedicated a total of 60' of right-of-way for Manchester Drive. The applicant's representative believes there is no reasonable likelihood that this portion of the street will ever be widened, and has asked the Development Services Chief Engineer to confirm this. (The City's Development Services Senior Engineer has commented that Manchester Drive is not planned to be widened).
- Typically, when the Board has found that this type of variance request is warranted, they have imposed the following conditions:
 - Compliance with the submitted revised 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 the request will allow the applicant to enclose a proposed addition with a garage door which otherwise could be constructed as an open garage (or carport) with an unenclosed parking space.
- The proposed addition with covered but unenclosed parking spaces would be in compliance with all development code setback regulations.
- The Development Services Senior Engineer has made the following comments on this appeal:
 1. "Manchester Drive is not planned for the street pavement to be widened.
 2. Manchester Dr. has no existing sidewalk.
 3. The site plan shows a sliding gate 8' in front of the garage door, and 20' from the street curb.
 4. A regular-size vehicle (defined as having a length of 17' 10") parking or stopping in front of this gate may block pedestrian walking along the parkway."

FILE NUMBER: BDA 045-271

BUILDING OFFICIAL'S REPORT:

Application of Carlyle Toll Hill L.P., represented by Ryan Bibb Consultants for a special exception to the sign regulations at 5310 Harvest Hill Road. This property is more fully described as Lot 2 in City Block A/7000 and is zoned NO (A) which limits the property to two detached signs. The applicant proposes to erect one additional detached sign which would require a special exception to the sign regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5310 Harvest Hill Road

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

REQUEST:

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

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

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

GENERAL FACTS:

- The Dallas Development Code states that each non-residential premise may display one detached sign for each 600 feet, or fraction thereof, of frontage along a public way.

- The subject site has a total combined frontage along the Dallas North Tollway service road and Harvest Hill Road of 782.13 feet, and is permitted to have two detached premise signs by right.
The applicant is proposing an additional (or 3rd) sign to be located on the site.
- A sign elevation had been submitted with the original application. This elevation provided the following information:
 - 8' x 8' in size;
 - The text to be placed on the sign; and
 - The height and sizes of the text on the sign.
- The originally submitted sign elevation did not indicate if or how the sign will be mounted (monument sign on the ground verses monopole-mounted).
- The originally submitted site plan indicated that the proposed additional sign would be located near the intersection of the Dallas Parkway and Harvest Hill Road. This submitted site plan did not indicate the location of existing signs on the site. However, according to a field visit conducted by the Board Administrator, the site appeared to have two monument signs: one sign adjacent to the building at the corner of the Dallas North Tollway service road and Harvest Hill Drive; the other sign located on Harvest Hill Drive.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information (submitted after the July 27th staff review team meeting therefore not part of the August staff analysis on this request) included the following:
 - A letter that explained in further detail why the request should be granted;
 - A table of "Summary of Office Market Indicators;"
 - A map entitled "Locations of lease signage at office;" and
 - Photos of the site and surrounding area (which will be available for review upon request at the briefing/hearing).
- The Board Administrator identified his discovery of a full-scale plan in the case file that was entitled "New Revised Site Plan" at the August 15th public hearing. The administrator informed the board of the following concerns:
 - The "New Revised Site Plan" had not been discovered earlier in the process in part because there had not been a reduced copy of this plan submitted in conjunction with the request.
 - The case number of the "New Revised Site Plan" in the file was labeled "BDA034-195" rather than the case number for the current application: BDA 045-271.
 - The applicant's representative had not identified the submittal of this "New Revised Site Plan" to either the board or to staff prior to administrator's discovery at the public hearing.
 - Although information on the "New Revised Site Plan" indicated the location and sizes of two existing signs on the site, information pertaining to the additional 3rd sign on the "New Revised Site Plan" did not match information pertaining to the 3rd additional sign on the other "Site Plan" - the site plan that staff had thought was the only plan submitted in conjunction with the request until discovery of the other plan at the public hearing.
 - The sign on the reduced "Site Plan" was linear in design, and the sign on the "New Revised Site Plan" was "V"-shaped.

- A note made on the "New Revised Site Plan" indicated a "Proposed Leasing Sign 8' x 4' Painted Wood, 2 sides "V." This note contradicted information detailed on the submitted sign elevation indicating that the sign was intended to be 8' x 8'.

The applicant informed the Board at the hearing that he had submitted the "New Revised Site Plan" per the suggestion of Building Inspection staff.

- The applicant's representative submitted additional information to the Board of Adjustment at the August 16th public hearing (see Attachment B).
- The applicant's representative submitted a revised elevation and revised site plan to the Board of Adjustment Chief Planner on August 26, 2005. (Attachment C is a copy of the revised elevation plan. The applicant said that a reduced copy of the revised site plan would be submitted at a later date).

The revised sign elevation provided the following information:

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

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

- The location of the "proposed signage" on the site that appears to be delineated with a line longer than the 8' length of the proposed sign that is shown on the submitted revised elevation;
 - The location of the two existing "Bldg. Monument Signage" and "Title Texas Monument Signage" signs on the site. (The dimensions that were on the previously submitted plan that was discovered at the August 15th hearing have been omitted from this revised plan).
- The applicant's representative submitted a document that included a revised site plan and sign elevations to the Board Administrator on September 8, 2005 (see Attachment D). This document provided the following information:
 - The location and elevation (with dimensions) of the third/additional "proposed signage" on the site that appears to be delineated with a line longer than the 8' length of the proposed sign that is shown on the submitted revised elevation of August 26th; and
 - The location *and elevations (with dimensions)* of the two existing signs on the site.
 - The Board of Adjustment conducted a public hearing on this matter on September 19, 2005. The applicant's representative submitted photographs to the Board of Adjustment of the existing signs on the subject site and surrounding area. (These photos will be available for review at the October 17th briefing/public hearing). One of the Board of Adjustment members encouraged the applicant's representative to consider redesigning his proposed additional sign, specifically considering a sign proposal that may be a monument sign, of more substantial building materials (brick), a sign with text limited to the leasing agents name and contact number. Another member asked the applicant's representative to consider resubmitting his proposal in a way that showed how the proposed additional sign related to either existing or proposed landscaping around the sign.
 - On October 7, 2005, the applicant's representative submitted a letter to the Board Administrator (see Attachment E). The letter has requested that the board "not consider the request any longer and deny the request without prejudice. The

property has been placed on the market and therefore they are seeking to reduce or eliminate further expenditures on the property.”

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA034-195, 5310 Harvest Hill Road (the subject site) On September 20, 2004, the Board of Adjustment Panel C denied a request for a special exception to the sign regulations without prejudice. The case report states the request was made to construct a detached premise “leasing” sign at the southeast corner of the intersection of the Dallas North Tollway service road and Harvest Hill Road.

Timeline:

- June 24, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 15, 2005: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”
- July 15, 2005: The Board Administrator contacted the applicant’s representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the July 25th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the August 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the August public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

July 27, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Transportation Engineer, the City of Dallas Chief Arborist, the Board of Adjustment Senior Planner; and the Assistant City Attorney to the Board.

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

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

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

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

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September

public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

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

Sept. 19, 2005 A public hearing was conducted on this matter. The board delayed action on this matter until October 17, 2005.

Sept. 22, 2005: The Board Administrator wrote the applicant's representative a letter that conveyed the following information:

- the September 19th action taken by the board; and
- the September 30th deadline to submit additional evidence for staff analysis, and the October 7th deadline to submit additional evidence to be incorporated into the Board's docket materials.

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

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

proposed signs are located as shown on the submitted site plan and are of the sizes indicated on the sign elevations. (The board may consider a slight discrepancy between the lengths of the "proposed signage" shown on the revised site plan/sign elevation plan at approximately 25' in length versus the length of the proposed sign shown on the revised elevation at 8' in length).

- However, on October 7, 2005, the applicant's representative submitted a letter requesting that the board deny this request without prejudice since the property has been placed on the market, and the client is seeking "to reduce or eliminate further expenditures on the property."

BOARD OF ADJUSTMENT ACTION: August 15, 2005

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

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

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

SECONDED: **Smith**

AYES: 4 – Madrigal, Smith, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: September 19, 2005

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

APPEARING IN OPPOSITION: No one

MOTION: **Wise**

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

SECONDED: **Chortek**

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA 045-275

BUILDING OFFICIAL'S REPORT:

Application of Peter Kavanagh, Zone Systems Inc., for a special exception to the fence regulations and to the visibility obstruction regulations at 10727-35 Camellia Drive. This property is more fully described as part of Lots 1 and 2 in City Block 2/5499 and is zoned R-16 (A) which limits the height of a fence in the front yard to 4 feet and requires that no structure be located in a visibility corner clip. The applicant proposes to maintain an 8 foot 5 inch fence in the required front yard setback and be located in a visibility corner clip, which would require a special exception of 3 feet 5 inches to the fence height regulations and a special exception to the visibility obstruction regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 10727-35 Camellia Drive

APPLICANT: Peter Kavanagh, Zone Systems Inc.

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no fences that appeared to be located in the front yard setback.
- The fence located on the south corner of Mums Place and Camellia Drive, south of the request site, appears to be in the side yard and it has not been determined to be in the visibility triangle.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- June 24, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 12, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 21, 2005: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;

- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the August 5th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the August public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

July 27, 2005:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Department Transportation Engineer; the Chief Arborist, Senior Planner Pitner and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

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

BOARD OF ADJUSTMENT ACTION: August 15, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gomez**

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

SECONDED: **Smith**

AYES: 4 – Madrigal, Smith, Wise, Gomez

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: September 19, 2005

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

APPEARING IN OPPOSITION: No one

MOTION: **Smith**

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

SECONDED: **Wise**

AYES: 3 – Madrigal, Smith, Wise

NAYS: 1– Choritek,

MOTION PASSED: 3 – 1

FILE NUMBER: BDA 045-286

BUILDING OFFICIAL'S REPORT:

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

LOCATION: 3424 Gillespie Street

APPLICANT: A. Winston Puig

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade. In all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located in PD No. 193 (O-2 Subdistrict) which allows a 9'-high fence by right.
- A scaled gate elevation was submitted with the application that indicates an open wrought iron entry gate where the highest component of the proposal is 15' 6" for the

two entry gate columns. The elevation shows an inverted arched open wrought iron entry gate ranging in height from approximately 12' at the entry columns downward to the center of the gate at approximately 9.5' in height

- A series of site plans were forwarded to the Board Administrator from Building Inspection. None of the plans forwarded to the Board Administrator with the file provided a scaled representation of the proposed fence/gate and its location relative to the site's property line and Gillespie Street curb line.
- However on August 26th, the applicant's representative submitted a revised site plan/elevation/section document to the Board Administrator that provided the following information (see Attachment A):
 - A scaled elevation plan that indicated an approximately 10.5'-high open wrought iron picket fence (including an approximately 1'-2' high stucco base); and 15.5'-high entry gate columns.
 - Two scaled section drawings that indicated the entry column located about 1' away from the building line (where the fence/gate at the proposed heights would be permitted by right).
 - A scaled site plan that indicated that the fence/gate would be linear in design, approximately 50'-long, and located approximately 13' from the property line (or 31' 5" from the back of the Gillespie Street curb line).
- The proposed fence/gate would be located on a site where no single family home would have direct/indirect frontage. (The proposal would be located immediately across Gillespie Street from The Mansion at Turtle Creek Hotel).
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fence/walls/gates.
- The Board Administrator identified a discovery made by staff on the morning of September 16th that precluded the Board's ability to take action on this matter at their September 19th public hearing: the address for this case on the posted agenda was incorrect. (The address on the posted agenda indicated 3426 Gillespie Street when the correct address for the subject site was 3424 Gillespie Street). The administrator informed the board that the address had been correctly conveyed in the notices sent to property owners and in the newspaper advertisement, therefore would not require renotece/readvertisement.
- As of October 7, 2005, the applicant's representative had not submitted any additional evidence or information for the board's docket.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- July 18, 2005 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 19, 2005: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the August 26th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 26, 2005 The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A).

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

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

Sept. 19, 2005 The Board of Adjustment was informed of an error made in the posting of this case. This error precluded the board from being able to act on this matter. The request was delayed until October 17, 2005.

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

STAFF ANALYSIS:

- A revised scaled site plan/section/elevation document has been submitted that indicates the location of the proposed fence, columns, and gate relative to their proximity to the property line and Gillespie Street curb line. The site plan on this document also clearly shows the length of the proposed fence/gate relative to the lot.
- A revised scaled site plan/section/elevation document and a gate elevation have been submitted that document the height of the proposed open wrought iron fence (10.5'), entry gate columns (15.5'), and inverted arched gate (12' – 9.5'), and the materials of the fence (open wrought iron with stucco base), and gate (open wrought iron).
- The proposed fence, columns, and gate are to be constructed of durable materials.
- The proposal directly "fronts" an existing hotel.
- There are no other fences, walls or gates in the immediate area that appear to exceed the 9' maximum height allowed for a fence in the zoning district.
- As of October 7th, the applicant's representative had forwarded 4 letters from neighbors/owners who support the request. One letter has been forwarded in opposition to the request. (This letter is from the Oak Lawn Committee).

- Granting this special exception of 6' 6" with conditions imposed that the applicant complies with the submitted gate elevation and scaled site plan/section/elevation document would assure that the proposed fence, entry columns, and gate are constructed and maintained as shown on these documents.
- As of October 7, 2005, the applicant's representative had not submitted any additional evidence or information for the board's docket.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

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

FILE NUMBER: BDA 045-294

BUILDING OFFICIAL'S REPORT:

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

LOCATION: 3627 Dickason Avenue

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

REQUESTS:

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

1. A special exception to the fence height regulations of 2' 6" is requested to maintain a 6' 4" high open wrought iron fence and gates (with 6' 6" high iron gate supports) located in the Welborn Street and Dickason Street front yard setbacks.
2. Special exceptions to the visibility obstruction regulations are requested to maintain landscape materials, open metal vehicular gates, an open wrought iron fence located in the 20'-visibility triangles at three drive approaches, and in the 30'-visibility triangle at the Welborn/Dickason intersection.

* Note that the notice sent to property owners and advertised in the newspaper for the September 19th public hearing had conveyed a fence height special exception of only 2 feet. The applicant did not discover that the fence actually reached 6.5' in height until the afternoon of September 8th. At that point, staff did not have time to adequately re-notice the fence height special exception request in the newspaper 10 days prior to the September 19th hearing.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

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

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

- The Dallas Development Code states that in all residential districts, except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.
- In addition, the Dallas Development Code states that in a multifamily districts, a fence located in the required front yard may be built to a maximum height of 6 feet above grade if all conditions in the following subparagraph are met:
 - No lot in the blockface may be zoned as a single family or duplex district.
 - No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.
 - No fence panel having less than 50 percent open surface may be located less than five feet from the front lot line.
- Until September 9, 2005, the applicant request was to maintain a 6'-high fence on the subject site which is located in a multifamily subdistrict. In this particular case, the maximum height allowed for a fence located in the required front yard is 4' since gates for vehicular traffic are located less than 20 feet from the back of the street on the subject property.
- Building Inspection had originally documented that the need before the board of adjustment was a special exception to the fence regulations related to the location of the gates on the site that were not located 20' from the back of the street curb. The applicant's application/appeal to the board addressed this issue. However, upon further review of the Dallas Development Code by the Board Administrator and the Assistant City Attorneys to the board, it appeared that the gate location was only a factor as to the issue at hand: how high a fence could be constructed and maintained in a multifamily district or subdistrict. The Board of Adjustment review staff members determined at the August 29th staff review team meeting that the issue before the board was a fence height special exception of 2' since only a 4'-high fence is permitted on this site in the multifamily subdistrict since there are gates on the site that are not located at least 20' from the back of the street curb. A revised Building Official's was created accordingly.
- Building Inspection states that no permit was issued by the City for the existing fence on this site.
- The site plan submitted with the application indicated that the existing fence and gates in the front yard setback have the following additional characteristics:

- "6'-0" open wrought iron fence;"
- Approximately 180' in length along Welborn Street and approximately 110' in length along Dickason Street;
- Located approximately on the site's front property lines or about 12' from the curb lines of Welborn Street and Dickason Street; and
- Located on a site where no single family homes have direct/indirect frontage to the existing fence and gate.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height in a front yard setback.
- On September 9, 2005, the applicant's representative submitted a letter to the Board (see Attachment A). The letter stated that it had been determined after measuring the existing fence on the site, that its maximum height was 6'-6" in height which would require a fence special exception of 2.5 feet, not the advertised two feet. The letter requested that both the fence height and visibility obstruction special exception requests be postponed until October 17th to allow the request for the fence height special exception to be properly re-noticed and re-advertised.
- On September 19, 2005, the Board of Adjustment conducted a public hearing on this matter and delayed action until October 17, 2005.
- On September 29, 2005, the applicant's representative submitted additional information to staff (see Attachment B). This information includes the following:
 - a letter that provides additional information about the request;
 - an elevation indicating a 6' 4" open wrought iron electronic gate (with a 6' 4" high open wrought iron fence) with 6' 6" high wrought iron gate support;
 - a revised site plan that indicates fence, gates, and landscape materials; and
 - a series of support letters from neighbors/owners adjacent to the site (and map showing where the support is located).

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

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - In a visibility triangle as defined in the Code (30-foot visibility triangles at intersections of streets in PD No. 193 that are not designated on the city's thoroughfare plan, and 20-foot visibility triangles at drive approaches); and
 - Between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant requests to maintain an open metal fence, open metal vehicular gates, and landscape materials (as noted on the submitted revised site plan) in the site's six 20'-visibility triangles at the three drive approaches (2 drive approaches on Welborn, 1 drive approach on Dickason), and in the 30'-visibility triangle at the Welborn Street and Dickason Street intersection.
- On September 9, 2005, the applicant's representative submitted a letter to the Board (see Attachment A). The letter stated that it had been determined after measuring the existing fence, that its maximum height was 6'-6" in height which would require a fence special exception of 2.5 feet, not the advertised two feet. The letter requested that both the fence height and visibility obstruction special exception requests be

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

- On September 19, 2005, the Board of Adjustment conducted a public hearing on this matter and delayed action until October 17, 2005.
- On September 29, 2005, the applicant's representative submitted additional information to staff (see Attachment B). This information includes the following:
 - a letter that provides additional information about the request;
 - an elevation indicating a 6' 4" open wrought iron electronic gate (with a 6' 4" high open wrought iron fence) with 6' 6" high wrought iron gate support;
 - a revised site plan that indicates fence, gates, and landscape materials; and
 - a series of support letters from neighbors/owners adjacent to the site (and map showing where the support is located).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- August 1, 2005 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 18, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 19, 2005: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;

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

August 29, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Development Services Department Current Planning Division Assistant Director, the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; and the Assistant City Attorneys to the Board.

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

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

Sept. 19, 2005 A public hearing was conducted on this matter. The board delayed action on this matter until October 17, 2005.

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

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

October 3, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. Review team members in attendance included: the Board Administrator, the Development Services Senior Transportation Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

- A scaled site plan was submitted that documents the location of an existing “6’-high open wrought iron fence” relative to its proximity to the property line and pavement line.
- A revised scaled site plan was submitted that documents the location of landscape materials located in visibility triangles. (This revised plan, however, deletes references/notations regarding the location and heights of the existing fence and gates).
- A scaled elevation has been submitted that documents the height of the existing fence (6’ 4”) and gates (6’ 4”), and gate supports (6’ 6”).
- Prior to the September hearing, the applicant had requested that the board delay action on this matter until October 17th to allow the City to send accurate notice to owners and to accurately advertise the request in the newspaper for a fence height special exception request of 2.5’ requested in conjunction with maintaining a fence that reaches 6.5’ (or ½ foot higher) than what was noticed and advertised on September 8, 2005.
- As of October 7, 2005, the applicant’s representative has submitted 13 letters from neighbors/owners who support the request. One letter has been submitted in opposition to the request. (This letter is from the Oak Lawn Committee).
- Granting this special exception of 2’ 6” with conditions imposed that the applicant complies with the submitted site plan (that documents the features of the existing fence and gates), revised site plan (that documents the location and characteristics of landscape materials in visibility triangles), and fence/gate elevation would assure that the existing fence, gates, and landscape materials are maintained as shown on these documents.

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

- The Development Services Senior Engineer has commented that he had no objections to the gate location less than 20 from the back of the street curbs but

recommended that the special exception to the visibility obstruction regulations pertaining to intersection triangle be denied. The engineer commented that even though the fence may be of open wrought iron material, the number of people driving through the intersection is higher than the residents exiting through the existing driveway, therefore inadequate visibility at the corner would impede sight distances and will impact the safety of drivers.

- A revised scaled site plan has been submitted that documents the location and characteristics of landscape materials located in visibility triangles. (This revised plan, however, deletes references/notations regarding the location and heights of the existing fence and gates).
- A scaled elevation has been submitted that documents the height of the existing fence (6' 4") and gates (6' 4"), and gate supports (6' 6").
- As of October 7, 2005, the applicant's representative has submitted 13 letters from neighbors/owners who support the request. One letter has been submitted in opposition to the request. (This letter is from the Oak Lawn Committee).
- Granting these special exceptions with conditions imposed that the applicant complies with the submitted site plan (that documents the features of the existing fence and gates), revised site plan (that documents the locations and characteristics of landscape materials located in visibility triangles), and fence/gate elevation would assure that the existing fence, gates, and landscape materials located in the 7 visibility triangles on the site are maintained as shown on these documents.

BOARD OF ADJUSTMENT ACTION: September 19, 2005

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

APPEARING IN OPPOSITION: No one

MOTION: **Smith**

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

SECONDED: **Wise**

AYES: 4 – Madrigal, Smith, Chortek, Wise

NAYS: 0–

MOTION PASSED: 4 – 0 (unanimously)