

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, APRIL 14, 2008

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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04-14-2008

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, APRIL 14, 2008
AGENDA

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

Donnie Moore, Chief Planner
Steve Long, Board Administrator
Kyra Blackston, Senior Planner

MISCELLANEOUS ITEM

Approval of the Monday, March 17, 2008 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 078-045	10005 Meadowbrook Drive REQUEST: Application of Saad Chehabi for a special exception to the fence height regulations	1
BDA 078-049(K)	5530 Kemper Court REQUEST: Application of John Weber, represented by Robert Baldwin, for a special exception to the fence height regulations	2
BDA 078-053	10453 Lennox Lane REQUEST: Application of Richard Squires for a special exception to the fence height regulations	3
BDA 078-061(K)	10564 Lennox Lane REQUEST: Application of Masterplan for a special exception to the fence height regulations	4
BDA 078-062(K)	4770 Harry's Lane REQUEST: Application of Masterplan for a special exception to the fence height regulations	5

HOLDOVER CASE

BDA 078-035(K)	12464 Breckenridge Drive REQUEST: Application of Doug Vanesko for a special exception to the fence height regulations	6
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REGULAR CASES

BDA 078-040	11210 Cox Lane REQUEST: Application of Janis E. Baldwin for a variance to the floor area ratio regulations and for a special exception to the single family regulations	7
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BDA 078-041	5415 Ross Avenue (AKA: 5419 Ross Avenue) REQUEST: Application of Nick Sieg for a variance to the front yard setback regulations and for a special exception to the visual obstruction regulations	8
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BDA 078-054(K)	6543 Chevy Chase Avenue REQUEST: Application of Charles W. Barnett for a special exception to the visual obstruction regulations	9
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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 March 17, 2008 public hearing minutes.

FILE NUMBER: BDA 078-045

BUILDING OFFICIAL'S REPORT:

Application of Saad Chehabi for a special exception to the fence height regulations at 10005 Meadowbrook Drive. This property is more fully described as Tract 7 in City Block 5517 and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9 foot 6 inch fence in a front yard setback which will require a special exception of 5 feet 6 inches.

LOCATION: 10005 Meadowbrook Drive

APPLICANT: Saad Chehabi

REQUEST:

- A special exception to the fence height regulations of 5' 6" is requested in conjunction with constructing and maintaining two 9' 6" high open iron rod gates flanked by 7' 10" high limestone entry columns in the 40' front yard setback on a lot being developed with a single family home. (A fence will be located on the site in the front yard setback but will comply with the Dallas Development Code requirement of 4' in height or less).

STAFF RECOMMENDATION:

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

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.
A site plan/elevation has been submitted that indicates that the proposal in the site's 40 front yard setback that will reach a maximum height of 10'.

- The following additional information was gleaned from the submitted site plan/elevation:
 - A line indicates the fence/column/gate location in the required 40' front yard setback where the gates/entry columns (over 4' in height) will be located about 12' from the front property line. (Although the pavement line has not been shown on the site plan which does not allow staff to fully determine whether the proposal is outside the required visibility triangles at the site's two drive approaches, the applicant has informed the Board Administrator that the proposal will be in compliance with the visual obstruction regulations).
 - A full fence/column/gate elevation indicates that the only component of the proposal to exceed 4' in height will be the two vehicular gates (with entry columns).
- There is one single family home that would have direct frontage to the proposal. This home has no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above four (4) feet high which appeared to be located in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-1 ac(A) (Single family district 1 acre)
North: R-1 ac(A) (Single family district 1 acre)
South: R-1 ac(A) (Single family district 1 acre)
East: R-1 ac(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, and west are developed with single family uses; and the area to the south is undeveloped.

Zoning/BDA History:

1. BDA 87-266, Property at 10040 Meadowbrook Drive (three lots northeast of the subject site)

On December 8, 1987, the Board of Adjustment took the following actions: 1) granted a fence height special exception request of 4' and imposed the following conditions: a) Submit for Board approval a revised landscape plan showing the location and names of the proposed plants and fence details; and b) Submit a registered survey showing the exact location of the proposed structure; and 2) granted a front yard variance request of 25'.

Timeline:

- Feb. 26, 2008: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 20, 2008: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- March 24, 2008: The Board Administrator contacted the applicant and shared the following information by phone and email:
- 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 March 31st deadline to submit additional evidence for staff to factor into their analysis;
 - the April 4th 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 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on allowing two open iron rod entry gates (and flanking columns) to exceed the 4' maximum height in the front yard setback. (A fence is proposed to be located between these gates but will comply with the code at 4' in height or less). A site plan/elevation has been submitted that documents the location of the two proposed 9' 6" high open iron entry gates with 7' 10" high columns in the site's 40' front yard setback. The gates appear to be about 12' from the property line.

- There is one single family home that would have direct frontage to the proposed gates/entry columns that would exceed 4' in height. This home does not have a fence in its front yard.
- No other fences above four (4) feet high which appeared to be located in the front yard setback were noted in the immediate area surrounding the subject site.
- As of April 7th, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' 6" (whereby the proposed two 9' 6" high open iron rod gates with flanking entry gate columns in the front yard setback) will not adversely affect neighboring property.
- Granting this special exception of 5' 6" with a condition imposed that the applicant complies with the submitted site plan/elevation would assure that the proposal would be constructed of/maintained as/limited to the materials, heights, and locations shown on these documents.

FILE NUMBER: BDA 078-049(K)

BUILDING OFFICIAL'S REPORT:

Application of John Weber represented by Robert Baldwin for a special exception to the fence height regulations at 5530 Kemper Court. This property is more fully described as Lot 9 in City Block 7/5597 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 8 foot 9 inch fence in a required front yard setback, which will require a special exception of 4 feet 9 inches.

LOCATION: 5530 Kemper Court

APPLICANT: John Weber represented by Robert Baldwin

REQUEST:

A special exception to the fence height regulations of 4' 9" is requested in conjunction with constructing and maintaining a solid fence in the site's 40' front yard setback.

STAFF RECOMMENDATION:

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

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 property is zoned R1ac(A) which requires a front yard setback of 40 feet.
- The subject site is located on the corner of Kemper Court and Hathaway.
- The subject site is currently being developed with a single family structure.
- The applicant is proposing to construct and maintain an 8' 9" solid fence along Kemper and Hathaway frontages.
- 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.

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, south, east and west are developed with single family homes.

Zoning/BDA History:

1. BDA 056-012
On November 16, 2005, the Board of Adjustment Panel B took the following action:
 - Granted a request for a special exception of 6' to the fence height regulation.

2. BDA 045-291
On September 21, 2005, the Board of Adjustment Panel B, took the following action:
 - Granted a request for a special exception of 6 feet to the fence height regulation.

Timeline:

- February 27, 2008 The applicant submitted an "Application to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 19, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- March 20, 2008: The Board of Adjustment Senior Planner contacted the applicant's representative and shared the following information via telephone and letter:
- the public hearing date and panel that will consider the application;
 - the criteria and standard that the board will use in their decision to approve or deny the request;

- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 31st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the April 4, 2008 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 April public hearing after considering the information and evidence and testimony presented to them by the applicant and all other interested parties.

March 31, 2008 The applicant submitted additional information, to the Senior Planner, for the Board's consideration (see attachment A).

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the 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.

STAFF ANALYSIS:

- A scaled site has been submitted that documents the location of the proposed solid wall, fence, columns, and gates relative to their proximity to the property line.
- A scaled elevation has been submitted that documents the stone wall to be 7'6" in height, the columns and stone caps to be 8' in height, and three gates 8'9" in height.
- A site visit by the Senior Planner reveals there are several fences in the immediate area.
- The scaled site plan details the following information regarding the placement and dimensions of the fence.
 - The fence runs along the entire perimeter of the property.
 - The material indicated on the elevation include:
 - stone wall approximately 15 ' in width

- wrought iron gates 8'9' in height
 - wrought iron fencing 6'6" in height
 - 2' wide stone columns every 13 feet
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence, wall, columns, and gate that are proposed to exceed 4' in height) will not adversely affect neighboring property.
 - If the Board chooses to grant this special exception of 4' 9", staff recommends imposing the conditions that the applicant complies with the submitted site plan, and elevation would assure that the proposed fences, columns, and gates are constructed and maintained as shown on these documents.

FILE NUMBER: BDA 078-053

BUILDING OFFICIAL'S REPORT:

Application of Richard Squires for a special exception to the fence height regulations at 10453 Lennox Lane. This property is more fully described as a part of Tract 1 in City Block 5533 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 10 foot fence in a required front yard setback which will require a special exception of 6 feet.

LOCATION: 10453 Lennox Lane

APPLICANT: Richard Squires

REQUEST:

- A special exception to the fence height regulations of 6' is requested in conjunction with constructing and maintaining a 6' high open wrought iron fence (with an approximately 1.5' solid stucco base) with 6' 6" high stucco columns and two open iron entry gates (the main gate at 10' in height and the service gate at approximately 7' in height) in the 40' front yard setback on a lot developed with a single family home.

STAFF RECOMMENDATION:

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

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.
A revised site plan/elevation has been submitted that indicates that the proposal in the site's 40 front yard setback will reach a maximum height of approximately 10'.

- The following additional information was gleaned from the originally submitted and revised submitted site plan/elevations:
 - A line indicates the fence/column/gate location in the required 40' front yard setback where the proposal over 4' in height is approximately 150' in length parallel to the street (and approximately 32' in length on either side of the site in the front yard setback) will be located about 8' from the front property line (or approximately 30' from the pavement line).
 - A revised full fence/column/gate elevation indicates that primarily open metal fence is 6' high with 6' 6" high stucco columns and two open iron entry gates (the main gate at 10' in height, the other service gate at approximately 7' in height).
 - The plan indicates landscape materials with the following notation: "All landscaping shown is existing." (The applicant has been advised of the visual obstruction regulations, and has not made application for a special exception to these regulations).
- There is one single family home that would have indirect frontage to the proposal. This home has a fence in its front yard that appears to have been "excepted" by the Board of Adjustment in 1999: BDA989-277. (The Board of Adjustment Panel B granted a special exception to the fence height regulations of 4' in conjunction with constructing and maintaining a 5' high open wrought iron fence with 6' 3" high columns, a 6' high open wrought iron and wood service entry gate with 6' 3" high brick columns, and a 7' 6" high open wrought iron and wood main entry gate with 8' high brick columns in the front yard setback along Lennox Lane).
- Other than the fence/column/gate mentioned above, the Board Administrator noted no other fences above four (4) feet high which appeared to be located in the front yard setback in his field visit of the site and surrounding area.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a revised site plan/elevation;
 - a document that provided additional details about the request;
 - a "letter of support" or petition signed by 11 neighbors who support the request with corresponding map of where these petitioners are located in relations to the site; and
 - photos of "other fences nearby – all on this block or the next one on Lennox."

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 989-277, Property at 10522 Lennox Lane (two lots northeast of the subject site) On August 24, 1999, the Board of Adjustment Panel A granted a fence height special exception request of 4' and imposed the following conditions: compliance with the submitted site plan and elevation plan dated June 1999 is required. The board also stipulated that the applicant be tied to compliance with the elevation submitted with regard to the materials and maximum fence heights as shown with lesser heights allowed than that what is shown on the elevation. The case report stated that the request was made in conjunction with constructing/maintaining a 5' high open wrought iron fence with 6' 3" high columns, a 6' high open wrought iron and wood service entry gate with 6' 3" high brick columns, and a 7' 6" high open wrought iron and wood main entry gate with 8' high brick columns in the front yard setback along Lennox Lane.

Timeline:

- Feb. 28, 2008: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 20, 2008: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- March 24, 2008: The Board Administrator contacted the applicant and shared the following information by phone and email:
- 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 March 31st deadline to submit additional evidence for staff to factor into their analysis;
 - the April 4th 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 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 April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 1 & 3, 2008: The applicant submitted additional information to the Board Administrator (see Attachment A).

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- A revised scaled site plan/elevation has been submitted that documents the location of the proposal in the front yard setback to exceed 4' in height which in this case is a 6' high primarily open iron fence with 6' 6" high stucco columns and two open iron gates (one at 10' in height, the other approximately 7' in height). The revised plan shows that the proposal is about 150' long parallel to the street (and about 32' on both "sides" of the site in the front yard setback), about 8' from the front property line (or about 30' from the pavement line).
- There is one single family home that would have indirect frontage to the proposal – a property with a fence in its front yard setback above 4' in height that appears to have been "excepted" by the Board in 1999 - a 5' high open wrought iron fence with 6' 3" high columns, a 6' high open wrought iron and wood service entry gate with 6' 3" high brick columns, and a 7' 6" high open wrought iron and wood main entry gate with 8' high brick columns.
- No other fences above four (4) feet high which appeared to be located in the front yard setback were noted in the immediate area surrounding the subject site other than the one mentioned above.
- As of April 7th, no letters had been submitted in opposition to the request and a petition had been submitted signed by 11 neighbors who support the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 6' (whereby the proposal that would reach 10' in height in the front yard setback) will not adversely affect neighboring property.
- Granting this special exception of 6' with a condition imposed that the applicant complies with the submitted revised site plan/elevation would assure that the proposal would be constructed of/maintained as/limited to the materials, heights, and locations shown on this document.

- Granting this fence height special exception request would not provide the applicant any relief to the Dallas Development Code regulations pertaining to visual obstruction regulations.

FILE NUMBER: BDA 078-061(K)

BUILDING OFFICIAL'S REPORT:

Application of Masterplan for a special exception to the fence height regulations at 10564 Lennox Lane. This property is more fully described as Lot 3 in City Block 2/5521 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 8 foot fence in a required front yard setback, which will require a special exception of 4 feet.

LOCATION: 10564 Lennox Lane

APPLICANT: Masterplan

REQUEST:

A special exception to the fence height regulations of 4' is requested in conjunction with constructing and maintaining a solid fence in the site's 40' front yard setback.

STAFF RECOMMENDATION:

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

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 property is zoned R1ac(A) which requires a front yard setback of 40 feet.
- The subject site has frontage along Harry's Lane and Lennox Lane.
- The subject site is currently developed.
- The applicant is proposing to construct and maintain a 6'6" solid fence along Harry's Lane and 8' solid fence along Lennox Lane.
- 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.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-1ac (A) (Single family district 1 acre)
<u>North:</u>	R-1ac (A) (Single family district 1 acre)
<u>South:</u>	R-1ac (A) (Single family district 1 acre)
<u>East:</u>	R-1ac (A) (Single family district 1 acre)
<u>West:</u>	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, south, east and west are developed with single family homes.

Zoning/BDA History:

1. BDA 956-132, 10595 Strait Lane On February 27, 1996, the Board of Adjustment Panel C took the following action:
 - Granted a request for a special exception of 5' to the fence height regulation.
2. BDA 94-009, 10645 Strait Lane On January 11, 1994, the Board of Adjustment took the following action:
 1. Granted a request for a special exception to maintain a fence 7 feet six inches in height.
3. BDA 956-177, 10615 Strait Lane On February 27, 1996, the Board of Adjustment granted a fee waiver request in conjunction with this case.
On April 23, 1996, the Board of Adjustment granted a request to maintain a 6 foot, 6 inch fence with 8 foot columns and 8 foot gate.
4. BDA 001-258, 10611 Strait Lane On September 17, 2001, the Board of Adjustment, denied a request for the special exception to the visibility regulations.

Timeline:

- February 28, 2008 The applicant submitted an "Application to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 19, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

March 20, 2008: The Board of Adjustment Senior Planner contacted the applicant's representative and shared the following information via telephone and letter:

- the public hearing date and panel that will consider the application;
- the criteria and standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 31st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the April 4, 2008 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 April public hearing after considering the information and evidence and testimony presented to them by the applicant and all other interested parties.

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the 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.

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed solid wall, fence, columns, and gates relative to their proximity to the property line.
- A scaled elevation has been submitted that documents the height of the fence to vary between 6'6" and 8' in height.
- A site visit by the Senior Planner reveals there are several fences in the immediate area.

- The scaled site plan details the following information regarding the placement and dimensions of the fence.
 - The fence runs the entire perimeter of the property.
 - The fence along Lennox Lane includes the following materials:
 - Wrought iron fence 6' in height
 - Brick columns with capstones 6'6" in height
 - An entry gate 20'9" wide constructed of wrought iron 5'7" in height and 8' stone columns with capstones 8' in height.
 - The fence along Harry's Lane includes the following materials:
 - Wrought iron fence 6' in height
 - An entry gate 15' wide constructed of wrought iron 6' in height
 - Brick columns with capstones 6' 6" in height
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence, wall, columns, and gate that are proposed to exceed 4' in height) will not adversely affect neighboring property.
- If the Board chooses to grant this special exception of 4' staff recommends imposing the conditions that the applicant complies with the submitted site plan, and elevation would assure that the proposed fences, columns, and gates are constructed and maintained as shown on these documents.

FILE NUMBER: BDA 078-062(K)

BUILDING OFFICIAL'S REPORT:

Application of Masterplan for a special exception to the fence height regulations at 4770 Harry's Lane. This property is more fully described as Lot 2 in City Block 2/5521 and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 6 foot 6 inch fence in a required front yard setback which will require a special exception of 2 feet 6 inches.

LOCATION: 4770 Harry's Lane

APPLICANT: Masterplan

REQUEST:

A special exception to the fence height regulations of 2' 6" is requested in conjunction with constructing and maintaining a solid fence in the site's 40' front yard setback.

STAFF RECOMMENDATION:

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

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 property is zoned R1ac(A) which requires a front yard setback of 40 feet.
- The subject site has frontage along Harry's Lane and Lennox Lane.
- The subject site is currently vacant.
- The applicant is proposing to construct and maintain an 6' 6" solid fence along Harry's and Lennox frontages.
- 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.

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, south, east and west are developed with single family homes.

Zoning/BDA History:

1. BDA 956-132, 10595 Strait Lane On February 27, 1996, the Board of Adjustment Panel C took the following action:
 - Granted a request for a special exception of 5' to the fence height regulation.

2. BDA 94-009, 10645 Strait Lane On January 11, 1994, the Board of Adjustment took the following action:
 - Granted a request for a special exception to maintain a fence 7 feet six inches in height.

3. BDA 956-177, 10615 Strait Lane On February 27, 1996, the Board of Adjustment granted a fee waiver request in conjunction with this case.
On April 23, 1996, the Board of Adjustment granted a request to maintain a 6 foot, 6 inch fence with 8 foot columns and 8 foot gate.

4. BDA 001-258, 10611 Strait Lane On September 17, 2001, the Board of Adjustment, denied a request for the special exception to the visibility regulations.

Timeline:

- February 28, 2008 The applicant submitted an "Application to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 19, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

- March 20, 2008: The Board of Adjustment Senior Planner contacted the applicant's representative and shared the following information via telephone and letter:
- the public hearing date and panel that will consider the application;
 - the criteria and standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 31st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the April 4, 2008 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 April public hearing after considering the information and evidence and testimony presented to them by the applicant and all other interested parties.

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the 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.

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed solid wall, fence, columns, and gates relative to their proximity to the property line.
- A scaled elevation has been submitted that documents the height of the fence to be 6'0" in height, the columns and stone caps to be 6' 6" in height, and gates 5' 7" in height.

- A site visit by the Senior Planner reveals there are several fences in the immediate area.
- The scaled site plan details the following information regarding the placement and dimensions of the fence.
 - The fence runs entire length of the Harry's Lane front yard, the entire length of the Lennox front yard, and the rear property line.
 - The material indicated on the elevation include:
 - brick base 2' in height
 - Wrought iron fence 4' in height
 - Brick columns with capstones 6' 6" in height
 - Operable sliding gate 5'7" in height
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence, wall, columns, and gate that are proposed to exceed 4' in height) will not adversely affect neighboring property.
- If the Board chooses to grant this special exception of 2' 6" staff recommends imposing the conditions that the applicant complies with the submitted site plan, and elevation would assure that the proposed fences, columns, and gates are constructed and maintained as shown on these documents.

FILE NUMBER: BDA 078-035(K)

BUILDING OFFICIAL'S REPORT:

Application of Doug Vanesko for a special exception to the fence height regulations at 12464 Breckenridge Drive. This property is more fully described as Lot 9 in City Block A/7463 and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 7 foot fence in a front yard setback, which will require a 3 foot special exception.

LOCATION: 12464 Breckenridge Drive

APPLICANT: Doug Vanesko

REQUEST:

A special exception to the fence height regulations of 3' is requested in conjunction with constructing and maintaining a solid fence in the site's 40' front yard setback.

STAFF RECOMMENDATION:

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

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 property is zoned R1/2 ac(A) which requires a front yard setback of 40 feet.
- The subject site is located on Breckenridge Drive.
- The applicant is proposing to construct and maintain a 7' solid fence along Breckenridge frontage.
- 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.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2 ac (A) (Single family district 1/2 acre)
North: TH-1(A) (Townhouse District 1)
South: R-1/2 ac (A) (Single family district 1/2 acre)
East: PD 381 (Planned Development)
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 are developed with townhouse. The areas to the east, and south, are developed with single family uses. The area to the west is a city park

Zoning/BDA History:

1. BDA 095-110 On October 10, 2005, the Board of Adjustment Panel took the following action:
 - Granted a request to the special exception to the side yard setback for a carport, for 12444 Breckenridge Drive.

Timeline:

- January 24, 2008 The applicant submitted an “Application to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 13, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- February 14, 2008: The Board of Adjustment Senior Planner contacted the applicant’s representative and shared the following information via telephone and letter:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 3rd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket;

- the March 7, 2008 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 February public hearing after considering the information and evidence and testimony presented to them by the applicant and all other interested parties.

March 4, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the 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.

March 17, 2008 The Board of Adjustment voted to hold this application under advisement until April 14, 2008.

April 1, 2008 The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the 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.

April 3, 2008 The applicant submitted additional information, to the Senior Planner, for the Board’s consideration (see attachment A).

STAFF ANALYSIS:

- A scaled site plan has been submitted that documents the location of the proposed solid wall, fence, columns, and gates relative to their proximity to the property line.
- A scaled elevation has been submitted that documents the height of the limestone veneer wall to be 7’ in height, the columns and stone caps to be 7’ in height, and three operable gates 6’6” in height.
- The property faces a City of Dallas park, therefore no homes have frontage to the site.
- A site visit by the Senior Planner reveals there are no other fences along Breckenridge.

- The scaled site plan details the following information regarding the placement and dimensions of the fence.
 - The fence sits 20' back from the front property line and runs 80'4" along the front of the property.
 - The material indicated on the elevation include:
 - Limestone veneer wall
 - powder coated steel fence with welded wire panels
 - powder coated steel pedestrian gate
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the fence, wall, columns, and gate that are proposed to exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 3' with conditions imposed that the applicant complies with the submitted site plan, and elevation would assure that the proposed fences, columns, and gates are constructed and maintained as shown on these documents.

FILE NUMBER: BDA 078-040

BUILDING OFFICIAL'S REPORT:

Application of Janis E. Baldwin for a variance to the floor area ratio regulations and for a special exception to the single family regulations at 11210 Cox Lane. This property is more fully described as Lots 13 and 14 in City Block E/6402 and is zoned R-16(A) in which an accessory structure floor area may not exceed 25% of the floor area of the main structure and limits the number of dwelling units to one. The applicant proposes to construct a single family residential accessory structure with 1,240 square feet of floor area (32.4% of the 3,830 square foot floor area of the main structure) which will require a 283 square foot variance to the floor area ratio regulations, and to construct an additional dwelling unit which will require a special exception.

LOCATION: 11210 Cox Lane

APPLICANT: Janis E. Baldwin

REQUESTS:

- The following appeals have been made in this application:
 1. A variance to the FAR (Floor Area Ratio) regulations of 283 square feet; and
 2. A special exception to the single family regulations.These appeals are requested in conjunction with locating/maintaining a one-story, approximately 1,200 square foot "accessory structure"/"dwelling unit" structure ("the Aunt Fan House") on a building site developed with a 1.5-story single family home (the City of Dallas Historic Landmark site – "the Cox Family Farmhouse.") Note that the subject site is comprised of two platted lots (Lot 13 and 14) that constitute one building site, and that the historic Cox Family Farmhouse (or main use on the site) is situated over the platted property line separating Lots 13 and 14.

STAFF RECOMMENDATION (Variance):

Denial

Rationale:

- Although staff concluded that granting the FAR variance does not appear to be contrary to the public interest since the request focuses on relocating/maintaining an "accessory structure" of historical relevance on a site developed with a "main structure" of similar historical relevance, neither the site's slope, its shape, or size appeared to preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.

- The applicant had not substantiated how the physical features of the flat, 0.8 acre subject site (that is rectangular in shape) constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification while simultaneously complying with code standards including FAR regulations.

STAFF RECOMMENDATION (Special exception):

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit in any single family zoning district since the basis for this type of appeal is *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.

STANDARD FOR A VARIANCE:

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

STANDARD FOR A SPECIAL EXCEPTION TO 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 (related to the variance):

- The Dallas Development Code states that the floor area of any individual accessory structures on a lot, excluding floor area used for parking, may not exceed 25 percent of the floor area of the main building.
Information from the applicant and/or the revised Building Official's Report state the main structure on the site (the Cox Family Farmhouse) is 3,830 square feet in area and that proposed accessory structure/dwelling unit structure (the Aunt Fan House) to be located on the site is 1,240 square feet in area – an accessory structure that would be 32 percent of the floor area of the main structure on the site (or 7 percent beyond the 25 percent allowed by the code).
- A floor plan has been submitted denoting that the proposed accessory structure (the Sears house) will be comprised of rooms that appear to include a kitchen and bath (among other rooms) whereby the Building Official has deemed it not only an "accessory structure" but a "dwelling unit" as well.
- Building Inspection deems the subject site as one building site that is comprised of two lots: Lots 13 and 14. Lots 13 and 14 are flat, rectangular in shape, and total 0.82 acres (or approximately 35,800 square feet) in area (approximately 218' on the north and south, and approximately 164' on the east and west). Lot 14 is distinguished from typically zoned single family lots in that it has two front yard setbacks – one front yard setback along Cox Lane, and another front yard setback along Whitehall Drive. The site is zoned R-16(A) (part of which includes a Historic Overlay District overlay) where lots are typically 16,000 square feet in area.
- DCAD records indicate that the site is developed with the following:
 - a single family home built in 1960 in very good condition with 2,498 square feet of living area; and
 - a 400 square foot detached garage.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a document that further explains the nature of the requests and why they should be granted; and
 - a revised site plan that correctly conveys the square footage of the main structure and the proposed accessory structure/dwelling unit structure.

GENERAL FACTS (related to the special exception):

- The Dallas Development Code limits the number of dwelling units on a lot zoned R-16(A). In addition, the Dallas Development Code defines "single family" use as "one dwelling unit located on a lot;" and a "dwelling unit" as "one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms."
A floor plan has been submitted denoting that the proposed accessory structure (the Aunt Fan House) will be comprised of rooms that appear to include a kitchen and bath (among other rooms) whereby the Building Official has deemed it not only an "accessory structure" but a "dwelling unit" as well.
- DCAD records indicate that the site is developed with the following:
 - a single family home built in 1960 in very good condition with 2,498 square feet of living area; and
 - a 400 square foot detached garage.

- The site plan indicates that the additional “dwelling unit” structure is located not closer than 15’ from the site’s side/rear property lines.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a document that further explains the nature of the requests and why they should be granted; and
 - a revised site plan that correctly conveys the square footage of the main structure and the proposed accessory structure/dwelling unit structure.

BACKGROUND INFORMATION:

Zoning:

Site: R-16 (A) (H-58)(Single family residential 16,000 square feet, Historic Overlay District)
North: R-16 (A) (Single family residential 16,000 square feet)
South: R-16 (A) (Single family residential 16,000 square feet)
East: R-16 (A) (Single family residential 16,000 square feet)
West: R-16 (A) (Single family residential 16,000 square feet)

Land Use:

The subject site is partially developed with a historic single family home (the Cox Family Farmhouse) and partially undeveloped. The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

- | | |
|---|--|
| 1. Z923-128, Property at 11210 Cox Lane (a portion of the subject site) | On January 27, 1993, the City Council passed an ordinance establishing Historic Overlay District No. 58 on property zoned R-16(A) – the Cox Farmhouse. |
|---|--|

Timeline:

- February 12, 2008: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 20, 2008: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- March 24, 2008: The Board Administrator contacted the applicant and shared the following information by phone and email:
- 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 March 31st deadline to submit additional evidence for staff to factor into their analysis;
- the April 4th 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 Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and in not, may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 31, 2008: The applicant submitted additional information to the Board Administrator (see Attachment A).

March 31, 2007 The Building Inspection Development Code Specialist forwarded a revised Building Official’s Report to the Board Administrator (see Attachment B).

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Chief Arborist, the Historic Preservation Senior Planner for Landmark Sites, and the Assistant City Attorney to the Board.

The Historic Preservation Senior Planner submitted a Review Comment Sheet marked “Has no objections” commenting “Landmark Commission approved with conditions proposed work – CA078-231 – 3/1/08.”

STAFF ANALYSIS (related to the variance):

- This FAR variance request of 283 square feet focuses on relocating/maintaining an accessory structure (a historic structure) with 1,240 square feet on the subject site where the main structure on this site (another historic structure) is 3,830 square feet. If relocated, the accessory structure would be 32 percent of the size of the main structure.
- The current provisions in the code would allow a new accessory structure no larger than 958 square feet in area with a 3,830 square foot main structure on the site.
- The site is one building site that is comprised of two separately platted lots on which the main structure lies over the side/separating property line. The site is flat, rectangular in shape (218’ x 164’) and about 36,000 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the FAR regulations 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 FAR variance is necessary to permit development of the subject site 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-16(A) zoning classification.
- The FAR variance 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 R-16(A) zoning classification.
- If the Board were to grant the FAR variance request of 283 square feet, imposing a condition whereby the applicant must comply with the submitted revised site plan, the floor areas of the accessory and main structures would be restricted to the sizes and locations of what is shown on this plan (which in this case, is an accessory structure that is 7 percent greater in floor area than the 25 percent floor area permitted by right).

STAFF ANALYSIS (related to the special exception):

- This request focuses on allowing an additional “dwelling unit” structure on the subject site – a structure in this case that is of historical relevance and, according to the applicant, would be saved from demolition if relocated from within the neighborhood to the site, and would “under no circumstance be used as a rental or for any commercial purpose.”
- The site is zoned R-16(A) where the Dallas Development Code permits one dwelling unit per lot. The site is developed with a single family home/dwelling unit, and the applicant proposes to relocate/maintain another structure as a second dwelling unit on the site hence the special exception request.
- This request centers on the function of what is proposed inside the structure. Building Inspection has deemed the proposed structure a “dwelling unit” based on what is shown on the submitted floor plan. If the board were to grant the FAR variance request and deny this request, the structure could be relocated and maintained with modifications to the function/use inside the structure (or to the floor plans). If the board were to grant the FAR variance request and deny this request, no modifications to structure’s footprint, height, or location would be necessary since the structure complies with all other applicable zoning code development standards.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve the request for a special exception to the single family regulations, subject to imposing a condition that the applicant comply with the submitted revised site plan, the “dwelling unit” structure would be restricted to the specific location and footprint shown on this plan, which in this case is a “dwelling unit” structure with an approximately 1,200 square foot building footprint situated on an approximately 0.8 acre site with a single family home (with an approximately

3,800 square foot building footprint) that is located not closer than 15' from the site's side and/or rear property lines.

- 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.

FILE NUMBER: BDA 078-041

BUILDING OFFICIAL'S REPORT:

Application of Nick Sieg for a variance to the front yard setback regulations and for a special exception to the visual obstruction regulations at 5415 Ross Avenue (AKA: 5419 Ross Avenue). This property is more fully described as Lot 25 in City Block 1472 and is zoned CR which requires a 20 foot visibility triangle at driveway approaches and requires a front yard setback of 15 feet. The applicant proposes to construct and maintain a structure and provide a 10 inch front yard setback which will require a 14 foot 2 inch variance to the front yard setback regulations and to construct and maintain items in a required visibility triangle which will require a special exception to the visual obstruction regulations.

LOCATION: 5415 Ross Avenue (AKA: 5419 Ross Avenue)

APPLICANT: Nick Sieg

REQUESTS:

- The following appeals have been made in this application:
 1. A variance to front yard setback regulations of 14' 2"; and
 2. A special exception to the visual obstruction regulations.The appeals are requested in conjunction with maintaining an existing "structure" (steps above 6" in height and an awning attached to an existing fast food structure), and constructing/maintaining a proposed raised and covered outdoor dining area addition to an existing restaurant (Tacos Y Mas) in the 15' front yard setback and in the 20' drive approach visibility triangle into the site from Ross Avenue. The site is currently developed with a fast food walk-up/drive-through restaurant (Taco Y Mas) and a car wash (Sparkle Car Wash).

STAFF RECOMMENDATION (Variance):

Denial

Rationale:

- Staff concluded that any property hardship related to the front yard variance requested to construct and maintain an addition to the restaurant structure/use on the site is self-created. The site is reasonably developed with two commercial/retail structures/uses (a car wash and what appears to have been built as/had been a *walk-up/drive-through* restaurant) where a variance to construct/maintain an addition for a dine-in facility into a front yard setback is not warranted. The proposal would

result in an over-developed site beyond what its reasonable developable space (after setbacks are account for) allows.

- Staff has additionally concluded that granting the request would be contrary to the public interest given that the structure is proposed to be located only 10" from the Ross Avenue front property line (or as much as 14' 2" into the 15' front yard setback).
- The applicant had not substantiated how the physical features of the flat, approximately 17,000 square foot subject site (that is rectangular in shape) constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification while simultaneously complying with code standards including front yard setback regulations.

STAFF RECOMMENDATION (Special exception):

Denial

Rationale:

- The City's Development Services Senior Engineer recommends denial since the one-way ingress into the site may or may not remain; the driveway may be relocated; and the proposal appears to block a portion of the exiting driveway.
- The applicant had not substantiated that items/structure proposed to be located in the 20' drive approach visibility triangle would not constitute a traffic hazard.

STANDARD FOR A VARIANCE:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL 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 variance):

- Structures on lots zoned CR are required to provide a minimum front yard setback of 15'.
According to the application and Building Official's Report, a variance of 14.1' or 14' 2" is requested since the applicant proposes to maintain a portion of an existing structure (a concrete slab and steps over 6" in height and an awning that is attached to the existing fast food restaurant structure) and to construct/maintain an addition (a raised/covered outdoor dining area) to an existing walk-up/drive through restaurant that would be 10" away from the front property line (or 14' 2" into the 15' setback).
- According to calculations taken from one of the submitted site plans by the Board Administrator, the existing structure (part of which is located in the front yard setback) is 13.5' long and 6' 8" wide, and the new "addition" structure is 17' 7" long and ranges from 9' 4" – 10' 6" in width. It appears that roughly 90 percent of the existing and proposed structures (steps, slab, awning, and covered seating area) is located in the 15' front yard setback.
- The site is flat, rectangular in shape (167.5' x 100') and approximately 17,000 square feet in area. The site is zoned CR.
- DCAD records indicate that the site is developed with the following:
 - a 2,160 square foot self service car wash built in 1978;
 - a 300 square foot fast food restaurant built in 1998; and
 - a 120 square foot cold storage built in 2006.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included photos of what appeared to be other outdoor dining areas in the city. (Original copies of these photos have been placed in the case file and will be available for review at the briefing/hearing).

GENERAL FACTS (related to the visual obstruction special exception):

- 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 applicant has submitted a series of site plans and elevations, some of which show a part of the proposed addition to be located in the 20' visibility triangle at the drive approach into the site from Ross Avenue. Although the applicant has submitted a document that describes an "addition floor" (or slab) to be 18" above grade and the highest point of the addition to be the peak of the non-permeable awning at 13.5' above grade that would be in the required visibility triangle, it appears (from one of the submitted site plans) that tables and chairs and (from one of the submitted elevations) an open metal railing and metal support pole for an awning would be in this visibility triangle as well.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included photos of what appeared

to be other outdoor dining areas in the city. (Original copies of these photos have been placed in the case file and will be available for review at the briefing/hearing).

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: CR (Community Retail)
South: CR (Community Retail)
East: CR (Community Retail)
West: CR (Community Retail)

Land Use:

The subject site is developed with a restaurant (Taco Y Mas) and a car wash (Sparkle Car Wash). The areas to the north, east, south, and west are developed with commercial/retail 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:

February 22, 2008: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 20, 2008: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

March 20, 2008: The Board Administrator contacted the applicant and shared the following information by phone and email:

- 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 March 31st deadline to submit additional evidence for staff to factor into their analysis;
- the April 4th 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 Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and, if not, may result in delay of action on the appeal or denial; and

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

April 1, 2008: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

April 3, 2008 The Development Services Senior Engineer submitted a Review Comment Sheet marked "Recommends that this be denied" with the following additional comments:

- the one-way may or may not remain;
- the driveway may be relocated;
- the proposed addition appears to block a portion of the existing driveway.

April 4, 2008: The applicant submitted additional information to the Board Administrator (see Attachment A).

STAFF ANALYSIS (related to the variance):

- The front yard variance request is twofold: partly to maintain a "structure" (in this case, steps, slab, and awning attached to the existing fast food drive through restaurant structure) and partly to construct/maintain an addition (in this case, a raised and "roofed" seating area) in the 15' Ross Avenue front yard setback.
- It appears that about 90 percent of the existing and proposed structure is/will be located in the front yard setback as close as 10" away from the site's front property line.
- The site is flat, rectangular in shape (167.5' x 100') and approximately 17,000 square feet in area. The site is zoned CR. According to DCAD, the site is developed with an approximately 2,200 square foot car wash structure/use that was built in 1978 and an approximately 300 square foot fast food restaurant that followed 20 years later in 1998.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations requested in conjunction with maintaining an existing "structure" and constructing/maintaining an addition 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 is necessary to permit development of the subject site (a site that is developed with car wash and fast food restaurant uses/structures, and is flat, rectangular in shape, and about 17,000 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 CR zoning classification.

- The variance 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 CR zoning classification.
- If the Board were to grant the variance request, imposing a condition whereby the applicant must comply with the submitted site plan, the structures in the front yard setback would be limited to what is shown on this plan – which in this case is an “existing” structure and an “addition” that would be located 10” from the site’s front property line (or 14’ 2” into the 15’ front yard setback). The imposition of the site plan alone as a condition to the request would not preclude the applicant from fully enclosing the “proposed open seating area” shown on a submitted elevation plan.

STAFF ANALYSIS (related to the visual obstruction special exception):

- The request focuses on maintaining items in a 20’ drive approach visibility triangle into the site from Ross Avenue. Although the applicant has submitted a document that describes an “addition floor” or slab to be 18” above grade and the highest point of the addition to be the peak of the non-permeable awning at 13.5’ above grade that would be in the required visibility triangle, it appears (from one of the submitted site plans) that tables and chairs and (from one of the submitted elevations) an open metal railing and metal support pole for the awning would be in this visibility triangle as well.
- The City’s Development Services Senior Engineer has indicated that this request should be denied. The engineer has concerns with the possibility of the one-way ingress point noted on a site plan possibly not remaining as strictly an ingress point, the possibility of the driveway being relocated; and with the fact that the proposed addition appears to block a portion of the existing driveway.
- The applicant has the burden of proof in establishing the following:
 - Granting the special exception to the visual obstruction regulations (whereby, according to a submitted site plan and a submitted elevation, tables and chairs and an open metal railing and metal support pole for the awning would be constructed/maintained in the 20’ visibility triangle at the drive approach into the site from Ross Avenue) will not constitute a traffic hazard.
- If this request is granted, subject to compliance with submitted site plans and elevations, the items “excepted” into the 20’ drive approach visibility triangle would be restricted to the location and items shown on these documents which in this case appears to be a open metal railing, a metal support pole for the awning, and tables and chairs.

FILE NUMBER: BDA 078-054(K)

BUILDING OFFICIAL'S REPORT:

Application of Charles W. Barnett for a special exception to the visibility obstruction regulations at 6543 Chevy Chase Avenue. This property is more fully described as Lot 15 in City Block 9/5465 and is zoned R-7.5(A) which requires a 20 foot visibility triangle at driveway approaches and at alley intersections. The applicant proposes to construct a fence and gate to a residential structure in a required visibility obstruction triangle which will require a special exception.

LOCATION: 6543 Chevy Chase Avenue

APPLICANT: Charles W. Barnett

REQUEST:

A special exception to the visibility obstruction regulation is requested in conjunction with constructing an 8' solid fence with operable gate in the site's Thackery Street 20' visibility triangle.

STAFF RECOMMENDATION:

Denial

Rationale:

The proposed development will create a traffic hazard.

The City Engineer has submitted a staff review sheet with the following comments:

- Dallas City Code, Plat regulations will require a 15' x 15' alley easement at street intersection. If the request is granted, it will conflict with plat regulations.
- Thackery Street carries traffic due to its location (adjacent to the Preston Hollow Park, and running parallel to Hillcrest Road towards the west.)

STANDARD FOR A SPECIAL EXCEPTION TO VISIBILITY OBSTRUCTION REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board shall grant a special exception to the visibility obstruction regulations, when in the opinion of the board, the special exception will not constitute a traffic hazard.

GENERAL FACTS:

- The property is zoned R-7.5(A)

- The subject site is has frontage along Chevy Chase Ave. and Thackery St.
- The subject site is under construction.
- The applicant is proposing to construct and maintain an 8' solid fence with operable gate in the site's Thackery Street 20' visibility triangle.
- The Dallas Development Code states that 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.

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: Preston Hollow Park
West: R-7.5 (A) (Single family district 7,500 square feet)

Land Use:

The subject site is being developed with a single family home. The areas to the north, south, and west are developed with single family homes. The property to the east is a City of Dallas park.

Zoning/BDA History:

There is no case history on this site nor property in the immediate area.

Timeline:

- February 28, 2008 The applicant submitted an "Application to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 19, 2008: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- March 20, 2008: The Board of Adjustment Senior Planner contacted the applicant's representative and shared the following information via telephone and letter:
- the public hearing date and panel that will consider the application;
 - the criteria and standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;

- the March 31st deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the April 4, 2008 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 April public hearing after considering the information and evidence and testimony presented to them by the applicant and all other interested parties.

April 1, 2008:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the 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.

STAFF ANALYSIS:

- A scaled site has been submitted that documents the location of the proposed fence and gates relative to their proximity to the property line and visibility triangle.
- The scaled elevation shows the fence to be 8' in height.
- A site visit by the Senior Planner reveals there are several fences in the immediate area.
- The proposed fence will encroach 10' into the property's 20' visibility triangle on Thackery Ave.
- Staff is recommending denial of this request because the City Senior Engineer has indicated this request conflicts with the City's plat regulations. The City's Senior Engineer has also indicated the proposed fence in the visibility triangle will create a traffic hazard.
- The applicant has the burden of proof in establishing that the special exception to the visibility obstruction regulations (whereby the fence, gate that are proposed to exceed 8' in height in the visibility triangle) will not create a traffic hazard.
- If the Board chooses to grant this special exception to the visibility obstruction regulations, staff recommends imposing the conditions that the applicant complies

with the submitted site plan and elevation which would assure that the proposed fence and gate are constructed and maintained as shown on these documents.