



AGENDA

Zoning Board of Adjustment Meeting

105 S. Cockrell Hill Road, Ovilla, Texas 75154

MAY 16, 2016

Pursuant to the provisions of Chapter 551 VTCA Government Code, notice is hereby given of a **Regular Meeting** of the Board of Adjustment to be held on **Monday, May 16, 2016 at 7:00 P.M.** at **105 S. Cockrell Hill Road, Ovilla, Texas, 75154** for the purpose of considering the listed item(s). *The Board of Adjustment of the City of Ovilla, Texas, reserves the right to meet in a closed session pursuant to authorization by Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations).*

Call to Order

Pledge of Allegiance

Consent Items

The following item(s) may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Board Member, in which event those items will be pulled from the consent agenda for individual consideration during this meeting.

- Minutes of the March 21, 2016 BOA Meeting

Individual Consideration

ITEM 1. BOA201516.09 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 **PLACEMENT**, filed by Ms. Kimberly Tucker for a variance to construct an accessory building with front facing door(s) on her property located at 306 Willow Creek.

DISCUSSION/ACTION – Consideration of and action on requested *Variance* filed by Ms. Kimberly Tucker.

ITEM 2. BOA201516.11 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 **FENCES IN RESIDENTIAL DISTRICTS**, filed by Mr. Gary Thigpen for a special exception to construct a fence with posts/rails on the outside on his property located at 105 Hummingbird Ln.

DISCUSSION/ACTION – Consideration of and action on requested *Special Exception* filed by Mr. Gary Thigpen.

ITEM 3. DISCUSSION/ACTION – Consideration of any item(s) pulled from the Consent Agenda above for individual consideration and action.

Carol Richtsmeier, PL1
Jamie Hilburn, PL2
Barbara Betik, Chair, PL3
Stephanie Albright, PL4

City of Ovilla

Richard Ware, Jr. Vice Chair, PL5
ALT- Jeanne Ham, PL6
ALT- Sandra Cawley, PL7
Mike Dooly, Code Enforcement

Zoning Board of Adjustment Requests for Future Items

No action or in-depth discussion may occur during this item. It is intended to provide an opportunity for the Board to inform each other and the public about events and situations that are of general interest.

Adjournment

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **May 16, 2016 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 1059 Cockrell Hill Road, Ovilla, Texas, on this 13th day of May 2016, prior to 5:00 p.m.



Glennell Miller
Board Secretary



DATE OF POSTING: MAY 13, 2016 **TIME:** 2:00 am/pm
DATE TAKEN DOWN: _____ **TIME:** _____ am/pm

IF YOU OR YOUR REPRESENTATIVE HAS A DISABILITY THAT REQUIRES SPECIAL ARRANGEMENTS AND YOU PLAN TO ATTEND THIS PUBLIC MEETING, PLEASE CONTACT THE CITY SECRETARY AT 972-617-7262 WITHIN 24 HOURS OF THE MEETING. REASONABLE ACCOMMODATIONS WILL BE MADE TO MEET YOUR NEEDS AT THE MEETING. PLEASE SILENCE CELL PHONES, AND OTHER ELECTRONIC EQUIPMENT WHILE THE ZONING BOARD OF ADJUSTMENT MEETING IS IN SESSION.

CITY OF OVILLA MINUTES
Monday, March 21, 2016
Regular Board of Adjustment Meeting

Vice Chair Richard Ware called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:01 p.m. with notice of the meeting duly posted. Vice Chair Ware made the following public announcements: **(1)** Pursuant to section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (Concealed Handgun Law), may not enter this property with a concealed handgun. **(2)** Pursuant to Section 30.07 Penal Code (Trespass by License Holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (Handgun Licensing Law), may not enter this property with a handgun that is carried openly.

The following BOA members were present, thus constituting a quorum:

Richard Ware	Vice Chair
Stephanie Albright	Board Member
Carol Richtsmeier	Board Member
Sandra Cawley	Board Member (Alternate)
Jeanne Ham	Board Member (Alternate)

Absent: Barbara Betik and Jamie Hilburn

Code Enforcement Officer Mike Dooly was present.

The Pledge of Allegiance was led at this time. Vice Chair Ware outlined the evening's agenda and briefed those present on board procedures.

CONSENT ITEMS

- Minutes of the January 19, 2016 BOA Meeting – Revised
- Minutes of the February 16, 2016 BOA Meeting

PL1 Richtsmeier made the motion that the BOA approve the consent items as presented.

PL4 Albright seconded the motion.

VOTE: The motion carried 5-0

Barbara Betik Chair, and Jamie Hilburn PL2 were noted absent.

PUBLIC HEARING

****At this time the Vice Chair moved the order of the Agenda to address Item #2 first****

ITEM 2. BOA201516.08 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT; filed by Mr. Todd Anderson for a residential variance to construct a front facing accessory building on his property at 609 Clinton St.

*Carol Richtsmeier, BOA PL1
Chair Barbara Betik, BOA PL3
Vice Chair, Richard Ware BOA PL5
Sandra Cawley, BOA PL7 (Alternate)*

*Jamie Hilburn, BOA PL2
Stephanie Albright, BOA PL4
Jeanne Hamm, BOA PL6 (Alternate)
Mike Dooly, Code Enforcement*

CITY OF OVILLA MINUTES
Monday, March 21, 2016
Regular Board of Adjustment Meeting

Vice Chair Ware read aloud the captioned request and opened the Public Hearing at 7:08 p.m. (Testimony that followed was under proper oath; City Representative)

Code Enforcement Officer Mike Dooley shared a brief summary and explained that the applicant has no other buildings on his property, and that the placement of the accessory building would be almost 100' (feet) back, with a fence across the driveway.

(Testimony that followed was under proper oath; Applicant)

Applicant, Todd Anderson explained he is requesting the board approve an accessory building on his property. He has purchased a new boat and the accessory building will be used for storage. He stated the building will be placed behind a gated driveway and will not be visible from the street. The applicant expressed there was no other way to get to the building other than main entrance facing the front of the property due to his septic system.

(Vice Chair Ware asked that those speaking in support of the request to please step to the podium:)

None

(Vice Chair Ware asked that those speaking in opposition of the request to please step to the podium:)

Ron Hoffman – 611 Clinton St. – neighbor; he has no problem personally with the accessory building being approved, but stated that he is President of their HOA and the placement of the building is not allowed.

(Rebuttal or Final Comments:)

None

***** Officer Dooley explained to the board that the HOA has no jurisdiction over City Ordinance, and that the City Ordinance is the guideline for the decision*****

Vice Chair Ware asked if City Hall had received any notices in favor or in opposition for this item. Seventeen (17) letters were mailed certified for notification and there were no responses received at City Hall in opposition or in favor.

Vice Chair Ware closed the Public Hearings at 7:22 p.m.

INDIVIDUAL CONSIDERATION

DISCUSSION/ACTION – Consideration of requested Variance filed by Mr. Todd Anderson.

The Board reviewed the criterion and completed the *Findings-of-Fact* form resulting in a positive outcome.

PL6 Ham moved that the BOA approve the variance to Todd Anderson at 606 Clinton for construction of a front facing accessory building as presented in BOA201516.08

PL4 Albright seconded the motion.

***Carol Richtsmeier, BOA PL1
Chair Barbara Betik, BOA PL3
Vice Chair, Richard Ware BOA PL5
Sandra Cawley, BOA PL7 (Alternate)***

***Jamie Hilburn, BOA PL2
Stephanie Albright, BOA PL4
Jeanne Hamm, BOA PL6(Alternate)
Mike Dooley, Code Enforcement***

CITY OF OVILLA MINUTES
Monday, March 21, 2016
Regular Board of Adjustment Meeting

Record vote was called:

Record Vote:

ALBRIGHT	<u>AYE</u>
BETIK	<u>Absent</u>
HILBURN	<u>Absent</u>
WARE	<u>AYE</u>
HAM	<u>AYE</u>
CAWLEY	<u>AYE</u>
RICHTSMEIER	<u>AYE</u>

VOTE: The motion to approve carried 5-0.

Barbara Betik Chair, and Jamie Hilburn PL2 were noted absent.

ITEM I. BOA201516.07 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS; filed by Mr. Eric Middleton for a residential special exception to leave his existing section of fence with the posts/rails on the outside on his property at 525 Savannah Dr.

Vice Chair Ware read aloud the captioned request and opened the Public Hearing at 7:27(Testimony that followed was under proper oath; City Representative)

Officer Dooly shared a brief summary and explained that the applicant wants to construct a fence with the back section having the poles and rails placed on the outside. He also explained that the neighbors on either side of applicant, have constructed their fences smooth side out per code.

(Testimony that followed was under proper oath; Applicant)

Applicant explained that his fence is already complete. He is asking for the variance to keep the smooth side in due his dogs being able to climb and get out of yard. The applicant explained he would have constructed correctly & paid in advance had he known all the requirements. Mr. Middleton blamed all communication issues on the city, and that all the neighbors like the fence. Mrs. Middleton, wife of the applicant, was there in support of her husband.

(Vice Chair Ware asked that those speaking in support of the request to please step to the podium:)

None

(Vice Chair Ware asked that those speaking in opposition of the request to please step to the podium:)

None

(Rebuttal or Final Comments:)

The applicant wanted to add to his earlier comments by letting the board know that Mr. Dooly never discussed with him that the flat surface of fence is required to face the outside.

*Carol Richtsmeier, BOA PL1
Chair Barbara Betik, BOA PL3
Vice Chair, Richard Ware BOA PL5
Sandra Cawley, BOA PL7 (Alternate)*

*Jamie Hilburn, BOA PL2
Stephanie Albright, BOA PL4
Jeanne Hamm, BOA PL6(Alternate)
Mike Dooly, Code Enforcement*

CITY OF OVILLA MINUTES
Monday, March 21, 2016
Regular Board of Adjustment Meeting

At this time the board asked Officer Dooly several questions about the requirements and the process applicants go through in order to receive a permit or to request a variance to come before the BOA. Dooly replied to the board that he explains to all applicants, and goes through the application process for the BOA with them before BOA filing fees are made. It is also clarified by staff to the homeowner prior to construction.

Vice Chair Ware asked if City Hall had received any notices in favor or in opposition for this item. Twentythree (23) letters were mailed certified for notification and there were no responses received at City Hall in opposition and (1) received in favor. Vice Chair Ware closed the Public Hearings at 7:48 p.m.

INDIVIDUAL CONSIDERATION

DISCUSSION/ACTION – Consideration of requested **Special Exception** filed by Mr. Eric Middleton.

The Board reviewed the criterion and completed the *Findings-of-Fact* form resulting in a negative outcome.

PL6 Ham moved that the BOA approve the special exception to Eric Middleton at 525 Savannah to leave his existing fence with the poles and rails on the outside as presented in BOA201516.07. Vice Chair Ware seconded the motion.

Record vote was called:

Record Vote:

ALBRIGHT	<u>AYE</u>
BETIK	<u>Absent</u>
HILBURN	<u>Absent</u>
WARE	<u>AYE</u>
HAM	<u>AYE</u>
CAWLEY	<u>NAY</u>
RICHTSMEIER	<u>NAY</u>

VOTE: The motion to approve DID NOT carry. 3-2. **REQUEST DENIED**
Barbara Betik Chair, and Jamie Hilburn PL2 were noted absent.

Zoning Board of Adjustments Requests for Future Items

N/A

Carol Richtsmeier, BOA PL1
Chair Barbara Betik, BOA PL3
Vice Chair, Richard Ware BOA PL5
Sandra Cawley, BOA PL7 (Alternate)

Jamie Hilburn, BOA PL2
Stephanie Albright, BOA PL4
Jeanne Hamm, BOA PL6(Alternate)
Mike Dooly, Code Enforcement

CITY OF OVILLA MINUTES
Monday, March 21, 2016
Regular Board of Adjustment Meeting

Adjournment There being no further business, Vice Chair Richard Ware adjourned the meeting at 7:57 p.m.

Richard Ware, Vice Chair

ATTEST:

Glennell Miller, Board Secretary

Attachment: Facts of Findings Form (2)

Approved on May 16, 2016

*Carol Richtsmeier, BOA PL1
Chair Barbara Betik, BOA PL3
Vice Chair, Richard Ware BOA PL5
Sandra Cawley, BOA PL7 (Alternate)*

*Jamie Hilburn, BOA PL2
Stephanie Albright, BOA PL4
Jeanne Hamm, BOA PL6(Alternate)
Mike Dooly, Code Enforcement*



City of OVILLA Board of Adjustment **Findings of Fact for SPECIAL EXCEPTION**

Applicant: ERIC MIDDLETON **Case Number:** BOA201415.07
Address: 525 SAVANNAH DR.

Upon giving public notice and conducting a public hearing on this ***SPECIAL EXCEPTION*** request in accordance with *Chapter 14, Section 35.3 Fences in Residential Districts* of the Zoning Ordinance, the Board of Adjustment adopts these specific, written findings as follows:

	YES	NO
1. That the use is specifically permitted under the ordinance and the requirements for such use are met; and		✓
2. That the location of proposed activities and improvements are clearly defined on the site plan filed by the applicant(s); and	✓	
3. That the exception, if granted, will be wholly compatible with the use and permitted development of adjacent properties.	✓	

BOA Members present, and upon a record vote of:

FOR AGAINST ABSTAIN

Member Jamie Hilburn			ABSENT
Chair Barbara Betik			ABSENT
Member Stephanie Albright	AYE		
Member Carol Richtsmeier		NAY	
Vice Chair Richard Ware	AYE		
Alt. Member Sandra Cawley		NAY	
Alt. Member Jeanne Ham	AYE		

TOTALS:

**3
2
0**

**FOR
AGAINST
ABSTAIN**

The special exception is hereby:

_____ **granted**

_____ **✓ denied**

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE



City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: TODD ANDERSON **Case Number:** BOA201516.08
Address: 609 CLINTON STREET

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 30.3; PLACEMENT of the Ovilla Code of Ordinances, the Board of Adjustment adopts these specific, written findings as follows:

	YES	NO
1. That special circumstances or conditions exist which are peculiar to the property, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.	✓	
2. That literal interpretation of the Ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same district under the Ordinance.	✓	
3. That the special conditions and circumstances do not result from the action of the applicant.	✓	
4. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and	✓	
5. The BOA shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.	✓	

BOA Members present, and upon a record vote of:

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn			ABSENT
Chair Barbara Betik			ABSENT
Member Stephanie Albright	AYE		
Member Carol Richtsmeier	AYE		
Vice Chair Richard Ware	AYE		
Alt. Member Sandra Cawley	AYE		
Alt. Member Jeanne Ham	AYE		

TOTALS:
 5 FOR
 0 AGAINST
 0 ABSTAIN

The variance is hereby: ✓ granted _____ denied

Presiding Officer of BOA

Date

City or Board Secretary

BOARD OF ADJUSTMENT
AGENDA ITEM NO: 1
May 16, 2016

ITEM 1. **BOA201516.09- *Public Hearing and Discussion*** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT filed by Ms. Kimberly Tucker for a variance to construct a front facing accessory building on property at 306 Willow Creek.

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Ms. Kimberly Tucker.

APPLICANT: Kimberly Tucker
LOCATION: 306 Willow Creek
ZONING: RE Residential

NOTICES: One public notice listed in the Waxahachie Daily Light; 10 certified letters mailed. There has been no responses in favor or in opposition.

APPLICANT'S PROPOSAL:

Applicant requests to construct a front facing accessory building.

DISCUSSION:

The Ovilla Code of Ordinances, Chapter 14, Section 30.3, **PLACEMENT** states:

(C) Angles. The main opening or door of the residential accessory building must face at a ninety (90°) degree or one hundred and eighty (180°) degree angle from the front of the main building; provided however, that barn doors may face forward if [if] the barn is a minimum of two hundred (200') feet off the front lot line.

BOARD DISCUSSION: The Board is allowed to grant a **variance** under certain circumstances & after review of the *Findings of Fact* form.

STAFF RECOMMENDATION: N/A

SAMPLE MOTION:

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO KIMBERLY TUCKER AT 306 WILLOW CREEK, TO CONSTRUCT A FRONT FACING ACCESSORY BUILDING ON HER PROPERTY, AS PRESENTED IN BOA201516.09."

Residential Building Permit Application

Building Permit Number: <u>5146</u>		Valuation: <u>\$ 14,000</u>	
		Valuation w/land: _____	
Project Address: <u>306 Willow Creek</u>			
Lot: <u>4A</u>	<u>B</u>	Subdivision: <u>Willow Creek Est</u>	
Project Description:		SPECIFY OTHER: <u>detached</u>	
NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>		
PLUMBING/ELECTRICAL <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>	
SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input checked="" type="checkbox"/>	FENCE <input type="checkbox"/> <u>garage</u>	
Proposed Use: <u>Garage</u>			
Description of Work: _____			
Area Square Feet:		Covered	
Living: _____	Garage: <u>576</u>	Porch: _____	Total: <u>576</u> Number of stories: <u>1</u>

Name: <u>K Tucker Const</u>	Contact Person: <u>Kim Tucker</u>
Address: <u>106 Eagle Feather Waxahachie TX 75165</u>	
Phone Number: <u>214 236-1451</u>	Home Number: _____ Mobile Number: _____

General Contractor	Contact Person	Phone Number	Contractor License Number
<u>K Tucker Const</u>	<u>Kim Tucker</u>	<u>214/236-1451</u>	
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
<u>Haney Electric</u>	<u>Jim Haney</u>	<u>214/802 5037</u>	<u>14689</u>
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Signature of Applicant: Kim Tucker Date: 4-6-16

OFFICE USE ONLY:

Approved by:	Date approved:	
City Manager:	Date approved:	

Plan Review Fee: _____
 Building Permit Fee: _____
 Park Impact Fee: _____
 Capital Recovery Fee: _____
 Fire Meter: _____
 Water Meter Cost: _____
 Water Impact: _____
 Sewer Connection Fee: _____
 Sewer Impact: _____
 Fire Fee: _____

Receipt # _____
 Receipt # _____
Denied - Front Facing
Accessory Building
map

Total Fees: _____
 Issued Date: _____
 Expires: 180 Days
 Issued By: _____

BV Project # _____

CHAPTER 14

ZONING



30.3 PLACEMENT

C. Angles. The main opening or door of the residential accessory building must face at a ninety (90°) degree or one hundred and eighty (180°) degree angle from the front of the main building; provided however, that barn doors may face forward if [if] the barn is a minimum of two hundred (200') feet off the front lot line.



INSTRUCTIONS FOR COMPLETING THE REQUEST FOR ZONING VARIANCE TO THE OVILLA BOARD OF ADJUSTMENT

Definition of Variance from the Ovilla Code of Ordinances adopted by Ordinance 2010.023

A variance is a relaxation by the Board of Adjustment of the dimensional regulations of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the situation of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

Variance. To authorized upon appeal in specific cases such variance from the height, yard area, coverage, and parking regulations set forth in this ordinance as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that is cannot be appropriately developed without such modifications.

This instruction page is provided for your information and assistance in filling out this variance request. It is not to be considered legal advice. City employees are not permitted to give legal advice in this matter.

Evidence of each of the following conditions must be found to exist by the Board of Adjustment in order for a variance request to be granted. They are:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; and
2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
3. That the special conditions and circumstances do not result from the action of the applicant;
4. The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Case No. BOA 201516. 09

CONDITIONS NECESSARY FOR GRANTING A VARIANCE



Ordinance 2010.023

Please state in detail how the conditions necessary for the granting of a variance have been met in this case. Attach additional sheets if necessary.

TO BE EXPLAINED, DETAILED & COMPLETED BY APPLICANT

Condition 1: Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

yes the lot not wide enough

Condition 2: That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

yes other neighbors enjoy a drive in garage

Condition 3: That the special conditions and circumstances do not result from the action of the applicant.

yes property is neighbor

Condition 4: The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

yes

Condition 5: The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.



yes new construction
I will enhance the area

Condition 6: Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

yes accessory buildings are allowed

The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

The burden of showing these conditions is on the applicant. You will be expected at the Board of Adjustment hearing to submit evidence providing the conditions stated exist. Evidence can be presented by testimony and/or through documentation.

All conditions are required to be met in order for the board of adjustment to grant your variance. Failure to state how your variance request meets these conditions in your application will result in its return without being submitted to the board of adjustment.



Case No. BOA 201516.09

REQUEST FOR A VARIANCE

To the

OVILLA ZONING BOARD OF ADJUSTMENT

CITY OF OVILLA

§

COUNTY OF ELLIS

STATE OF TEXAS

§

TO THE HONORABLE BOARD OF ADJUSTMENT

Property description (Attach field notes if necessary):

Lot No. 4A

Property Address 306 Willow Creek

Block No. B

Ovilla TX 75154

Zoning RE

The Applicant, Kim Tucker, of Ellis County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article _____, Chapter _____, Section _____ of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

Would like a front facing detached garage
It will be behind a 6' wood fence. The way my house lay out on lot garage would only be accessible from front facing

Has a previously appeal been filed on this property?

YES / NO

If YES, when was the previous appeal filed? _____



- Case No. BOA 201516.09

I have completed the following requirements:

1. Paid the filing fee of \$200.00 (checks made payable to "City of Ovilla")
2. Submitted a scaled plot/site plan
3. Completed all sections of the application

I authorize _____ of _____
(Applicant's agent) (Address)

_____ to represent me in this variance request before the Board of Adjustment.
(Telephone)

Respectfully submitted:

Applicant's Name Kim Tucker
Mailing Address 106 Eagle Feather
Waxahachie TX 75165
Telephone (Hm) 214/236-1451
Telephone (Wk) Same
Email KimTucker2015@gmail.com

Kim Tucker
Applicant's signature

~~4-10-16~~
Date 4/6/16

NO APPLICATION MAY BE ACCEPTED BY MAIL, MESSENGER, OR FAX.

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON



DATE: 4.6.16

• Case No. BOA 201516.09

OFFICE USE ONLY

DATE RECEIVED: 4/6/16 HEARING DATE: 4/18/16

APPROVED: _____ DENIED: _____

BOA CHAIRMAN SIGNATURE: _____





City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: KIMBERLY TUCKER
Address: 306 WILLOW CREEK

Case Number: BOA201516.09

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 30.3; PLACEMENT of the Ovilla Code of Ordinances, the Board of Adjustment adopts these specific, written findings as follows:

	YES	NO
1. That special circumstances or conditions exist which are peculiar to the property, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.		
2. That literal interpretation of the Ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same district under the Ordinance.		
3. That the special conditions and circumstances do not result from the action of the applicant.		
4. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and		
5. The BOA shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.		

BOA Members present, and upon a record vote of:

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn			
Chair Barbara Betik			
Member Stephanie Albright			
Member Carol Richtsmeier			
Vice Chair Richard Ware			
Alt. Member Sandra Cawley			
Alt. Member Jeanne Ham			

TOTALS:

___ FOR
___ AGAINST
___ ABSTAIN

The variance is hereby: _____ granted _____ denied

Presiding Officer of BOA

Date

City or Board Secretary

BOARD OF ADJUSTMENT
AGENDA ITEM NO: 2
May 16, 2016

ITEM 2. **BOA201516.10- *Public Hearing and Discussion*** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 **FENCES IN RESIDENTIAL DISTRICTS** filed by Mr. Thigpen for a special exception construct on his property at 105 Hummingbird Ln.

DISCUSSION/ACTION – Consideration of requested ***Special Exception*** filed by Mr. Gary Thigpen.

APPLICANT:	Gary Thigpen
LOCATION:	105 Hummingbird Ln.
ZONING:	R22 Residential
NOTICES:	One public notice listed in the Waxahachie Daily Light; 13 certified letters mailed. There have been no responses in favor or in opposition.

APPLICANT'S PROPOSAL:

Applicant requests to construct fence with the support rails/posts on the outside.

DISCUSSION:

The Ovilla Code of Ordinances, Chapter 14, Section 35.3, **FENCES IN RESIDENTIAL DISTRICTS** states:

*(D) **Support and Rails.** 2. Panel fences shall be constructed such that the support rails are located on the inside of the lot and the panel is located on the outside of the lot, so as to present a "smooth side out" appearance to the fence. (Ordinance 2010.015 adopted 08/09/10)*

BOARD DISCUSSION: The Board is allowed to grant a ***variance*** under certain circumstances & after review of the *Findings of Fact* form.

STAFF RECOMMENDATION: N/A

SAMPLE MOTION:

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO GARY THIGPEN AT 105 HUMMINGBIRD LN, TO CONSTRUCT HIS FENCE WITH THE SUPPORT POSTS/RAILS ON THE OUTSIDE, ON HIS PROPERTY, AS PRESENTED IN BOA201516.10."

Residential Building Permit Application

Building Permit Number: <u>5162</u>		Valuation: _____	
		Valuation w/land: _____	
Project Address: <u>105 Hummingbird Lane, Ovilla, Tx 75154</u>			
Lot: <u>3</u>	Block <u>D</u>	Subdivision: <u>Ashburne Glen Estates, Phase 1</u>	
Project Description:			
NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: <u>Replace Pickets + Rails</u>	
PLUMBING/ELECTRICAL <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>	
SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input type="checkbox"/>	FENCE <input checked="" type="checkbox"/>	
Proposed Use: <u>Privacy Fence. Replace as is with new pickets + needed rails</u>			
Description of Work: <u>130' of pickets as well as new gate.</u>			
Area Square Feet: _____		Covered Porch: _____	Total: _____
Living: _____	Garage: _____	Number of stories: _____	

Name: <u>Gary Thigpen</u>	Contact Person: <u>Gary Thigpen</u>
Address: <u>105 Hummingbird Lane</u>	
Phone Number: <u>469 261 5467</u>	Mobile Number: <u>469 261 5467</u>

General Contractor	Contact Person	Phone Number	Contractor License Number
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Signature of Applicant: Gary Thigpen Date: 4/27/16

OFFICE USE ONLY:

Approved by: _____	Date approved: _____
City Manager: _____	Date approved: _____

Plan Review Fee: _____
 Building Permit Fee: _____
 Park Impact Fee: _____
 Capital Recovery Fee: _____
 Fire Meter: _____
 Water Meter Cost: _____
 Water Impact: _____
 Sewer Connection Fee: _____
 Sewer Impact: _____
 Fire Fee: _____

Receipt # _____
 Receipt # _____

Total Fees: _____
 Issued Date: _____
 Expires: 180 Days
 Issued By: _____

Denied -
wood poles & rails on outside
NOT APPLICABLE

BV Project # _____

105 Hummingbird Lane

Fence replacement

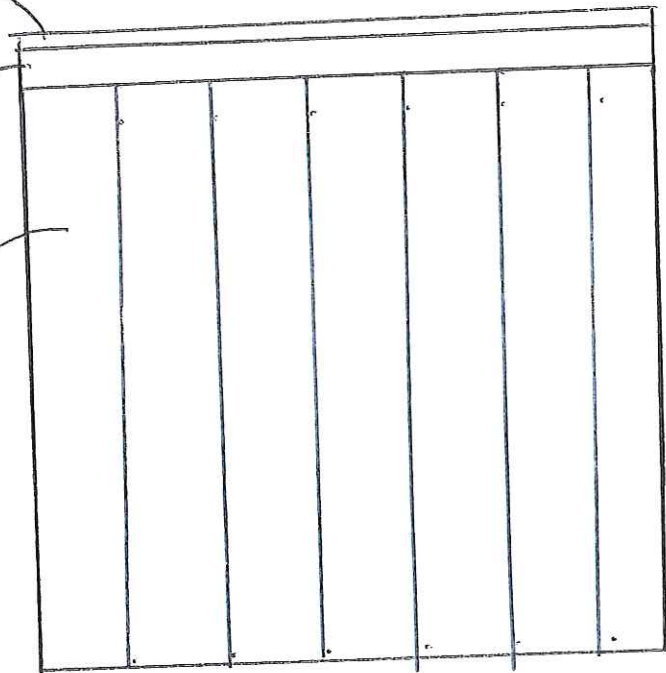
Pickets & Rails.

~~No posts to be replaced~~

2x4 Top cap

1x4

1x6



~~wooden posts in place~~

Rails & pickets on outside Facing alley & driveway.



40.793 Acres - Ken Pritchett Properties

(N 89°48'00" E, 100')

S 89°55'32" E, 99.96' 10' Concrete Alley

Fnd. 1/2" S.R.

Fnd. 1/2" S.R.

Lot 3, Block D

5' T.U.E.

One Story Brick
105
Hummingbird Ln.

Lot 4

(Plat - N 00°12'00" W, 150')
N 00°14'42" W, 150.15'

(S 00°12'00" E, 150')
S 00°15'40" E, 149.67'

35' Building
Line

13.4'

35'

5' T.U.E.

Fnd. 1/2" S.R.

S 89°48'00" W, 100.00' Fnd. 1/2" S.R.

(Same as Plat)

Hummingbird Lane

(50' R.O.W.) 30' Concrete
Street

Lot 21

Block C
Lot 20

Lot 19

Being all that certain lot, tract or parcel of land being LOT 3, BLOCK D, ASHBURNE GLEN ESTATES ADDITION, Phase 1, an addition to the City of Dvilla, Ellis County, Texas, according to the Map thereof recorded in Cabinet C, Slides 266 and 267, Plat Records, Ellis County, Texas.

The Plat hereon is a true and accurate representation of the property as determined by a survey made on the ground, the lines and dimensions of said property being as indicated on the plat. The size, location and type of buildings and improvements being within the boundaries of the property lines as shown. There are no visible encroachments, protrusions or easements, except as shown on the plat. I further certify that no portion of subject property lies within a special flood hazard area, according to the Flood Insurance Rate Map for the City of Dvilla, Community# 480155, Panel# 005B, ZONE C.

ENGINEERS

D & M

Walter Keven Davis

Walter Keven Davis
Registered Professional Land Surveyor
#4466

DAVIS & McDILL



CHAPTER 14

ZONING

35.3 FENCES IN RESIDENTIAL DISTRICTS

D. Support and Rails.

2. *Panel fences shall be constructed such that the support rails are located on the inside of the lot and the panel is located on the outside of the lot, so as to present a “smooth side out” appearance to the fence.*



INSTRUCTIONS FOR COMPLETING THE REQUEST FOR ZONING VARIANCE TO THE OVILLA BOARD OF ADJUSTMENT

Definition of Variance from the Ovilla Code of Ordinances adopted by Ordinance 2010.023

A variance is a relaxation by the Board of Adjustment of the dimensional regulations of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the situation of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

Variance. To authorized upon appeal in specific cases such variance from the height, yard area, coverage, and parking regulations set forth in this ordinance as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that is cannot be appropriately developed without such modifications.

This instruction page is provided for your information and assistance in filling out this variance request. It is not to be considered legal advice. City employees are not permitted to give legal advice in this matter.

Evidence of each of the following conditions must be found to exist by the Board of Adjustment in order for a variance request to be granted. They are:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; and
2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
3. That the special conditions and circumstances do not result from the action of the applicant;
4. The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Case No. BOA 201516.10

CONDITIONS NECESSARY FOR GRANTING A VARIANCE



Ordinance 2010.023

Please state in detail how the conditions necessary for the granting of a variance have been met in this case. Attach additional sheets if necessary.

TO BE EXPLAINED, DETAILED & COMPLETED BY APPLICANT

Condition 1: Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

Yes. Replaced existing fence.

Condition 2: That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

Yes. Neighbors fences in the alley have posts on outside

Condition 3: That the special conditions and circumstances do not result from the action of the applicant.

I replaced existing fence.

Condition 4: The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

Yes.

Condition 5: The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.



Yes. New Fences look better and replaces 17 year old pickets.

Condition 6: Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Yes. Fences are allowed

The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

The burden of showing these conditions is on the applicant. You will be expected at the Board of Adjustment hearing to submit evidence providing the conditions stated exist. Evidence can be presented by testimony and/or through documentation.

All conditions are required to be met in order for the board of adjustment to grant your variance. Failure to state how your variance request meets these conditions in your application will result in its return without being submitted to the board of adjustment.



Case No. BOA201516.1D

REQUEST FOR A VARIANCE

To the

OVILLA ZONING BOARD OF ADJUSTMENT

CITY OF OVILLA

§

COUNTY OF ELLIS

STATE OF TEXAS

§

TO THE HONORABLE BOARD OF ADJUSTMENT

Property description (Attach field notes if necessary):

Lot No. _____

Property Address 105 Hummingbird

Block No. _____

Ovilla Tx

Zoning _____

The Applicant, _____, of ELLIS County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article _____, Chapter _____, Section _____ of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

Requesting to allow poles and rails on outside Facing alley and driveway.

Has a previously appeal been filed on this property?

YES NO

If YES, when was the previous appeal filed? _____



- Case No. BOA 201516.10

I have completed the following requirements:

1. Paid the filing fee of \$200.00 (checks made payable to "City of Ovilla")
2. Submitted a scaled plot/site plan
3. Completed all sections of the application

I authorize _____ of _____
(Applicant's agent) (Address)

_____, to represent me in this variance request before the Board of Adjustment.
(Telephone)

Respectfully submitted:

Applicant's Name Gary Thielen
Mailing Address 105 Hummingbird Lane
Ovilla, TX 75154
Telephone (Hm) 469. 261. 5467
Telephone (Wk) 469. 261. 5467
Email _____

Applicant's signature

Date

NO APPLICATION MAY BE ACCEPTED BY MAIL, MESSENGER, OR FAX.

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON



DATE: 4.27.2016

• Case No. BOA 201516.10

OFFICE USE ONLY

DATE RECEIVED: 4/27/2016 HEARING DATE: 5/16/2016

APPROVED: _____ DENIED: _____

BOA CHAIRMAN SIGNATURE: _____





**City of OVILLA Board of Adjustment
Findings of Fact for SPECIAL EXCEPTION**

Applicant: GARY THIGPEN **Case Number:** BOA201415.10
Address: 105 HUMMINGBIRD LN.

Upon giving public notice and conducting a public hearing on this **SPECIAL EXCEPTION** request in accordance with Chapter 14, Section 35.3 Fences in Residential Districts of the Zoning Ordinance, the Board of Adjustment adopts these specific, written findings as follows:

	YES	NO
1. That the use is specifically permitted under the ordinance and the requirements for such use are met; and		
2. That the location of proposed activities and improvements are clearly defined on the site plan filed by the applicant(s); and		
3. That the exception, if granted, will be wholly compatible with the use and permitted development of adjacent properties.		

BOA Members present, and upon a record vote of:

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn			
Chair Barbara Betik			
Member Stephanie Albright			
Member Carol Richtsmeier			
Vice Chair Richard Ware			
Alt. Member Sandra Cawley			
Alt. Member Jeanne Ham			

TOTALS:

— FOR
— AGAINST
— ABSTAIN

The special exception is hereby:

_____ **granted**

_____ **denied**

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE