

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



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

## AGENDA

Zoning Board of Adjustment Meeting  
105 S. Cockrell Hill Road, Ovilla, Texas 75154  
March 21, 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, March 21, 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).*

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**PURSUANT TO SECTION 30.06, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.**

**CONFORME A LA SECCIÓN 30.06 DEL CÓDIGO PENAL (ENTRADA SIN AUTORIZACIÓN POR TITULAR DE LICENCIA CON UNA PISTOLA OCULTA), UNA PERSONA CON LICENCIA BAJO EL SUBCAPÍTULO H, CAPÍTULO 411 DEL CÓDIGO DE GOBIERNO (LEY DE LICENCIAS DE PISTOLAS), NO PUEDE ENTRAR EN ESTA PROPIEDAD CON UNA PISTOLA OCULTA.**

**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.**

**CONFORME A LA SECCIÓN 30.07 DEL CÓDIGO PENAL (ENTRADA SIN AUTORIZACIÓN POR TITULAR DE LICENCIA CON UNA PISTOLA VISIBLE), UNA PERSONA CON LICENCIA BAJO EL SUBCAPÍTULO H, CAPÍTULO 411 DEL CÓDIGO DE GOBIERNO (LEY DE LICENCIAS DE PISTOLAS), NO PUEDE ENTRAR EN ESTA PROPIEDAD CON UNA PISTOLA VISIBLE.**

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### Call to Order

Pledge of Allegiance

### Comments, Presentations, Reports and/or Appointments

#### ▪ Citizen Comments

The Board of Adjustment welcomes comments from Citizens. Those wishing to speak must sign in before the meeting begins. Speakers may speak on any topic, whether on the agenda or not. The Board of Adjustment cannot act upon, discuss issues raised, or make any decisions at this time. Speakers under citizen's comments must observe a three-minute time limit. Inquiries regarding matters not listed on the Agenda may be referred to Staff for research and possible future action.

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

**Individual Consideration**

**ITEM 1.** **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 special exception to leave his existing section of fence with the rails on the outside on his property located at 525 Savannah Dr.

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

**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. Anderson for a variance to construct a front facing accessory building on his property at 609 Clinton St.

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

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

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**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.*

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**Adjournment**

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **March 21, 2016 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 18th day of March 2016, prior to 5:00 p.m.

*Glenell Miller*

Glenell Miller  
Board Secretary

**DATE OF POSTING:** 3-18-2016 **TIME:** 10:30 **am/pm**  
**DATE TAKEN DOWN:** \_\_\_\_\_ **TIME:** \_\_\_\_\_



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**  
**Tuesday, January 19, 2016**  
**Regular Board of Adjustment Meeting**

Chair Barbara Betik called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:05 p.m. with the following BOA members present, thus constituting a quorum:

Barbara Betik	Chair
Stephanie Albright	Board Member
Jamie Hilburn	Board Member
Sandra Cawley	Board Member (Alternate)

Absent: Carol Richtsmeier, Richard Ware and Jeanne Ham were noted absent.  
Code Enforcement Officer Mike Dooly was present.

PL2 Hilburn called roll of all members present, thus declaring a quorum. The Pledge of Allegiance was led at this time. Chair Betik outlined the evening's agenda and briefed those present on board procedures.

**COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS**

None

**CONSENT ITEM**

- Minutes of the November 16, 2015 BOA Meeting

PL2 Hilburn made the motion that the BOA approve the consent item as presented.  
PL4 Albright seconded the motion.

***VOTE: The motion carried 4-0.***

***Carol Richtsmeier PL1, Richard Ware Vice Chair, and Jeanne Ham PL6 were noted absent.***

**PUBLIC HEARING**

**ITEM 1.** ***BOA201516.03 - Public Hearing and Discussion*** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.1 GENERALLY; filed by Mr. Ronald DeFord for a residential variance to construct a residential accessory building prior to the construction of the main dwelling, which is not allowed by Ordinance, on his property located at 800 Hosford Rd.

***\*\*Chair Betik explained that BOA.03 and BOA.04 would be addressed together being the same applicant and property\*\****

***Chair Betik read aloud the captioned request and opened the Public Hearing at 7:15 p.m. (Testimony that followed was under proper oath; City Representative)***

Code Enforcement Officer Mike Dooly shared a brief summary and explained that the applicant would like to build the accessory building prior to the main dwelling being built. The applicant would like to live in the accessory building while the rest of the main dwelling is being built.

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

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

**CITY OF OVILLA MINUTES**  
**Tuesday, January 19, 2016**  
**Regular Board of Adjustment Meeting**

Officer Dooly also explained if approved through the BOA, then this case would go to the Planning and Zoning Commission for review and then on to the City Council. Officer Dooly also explained that this accessory building is intended as a garage and once the main structure was complete, the garage will be used for storage.

**(Testimony that followed was under proper oath; Applicant)**

Applicant, Ron DeFord explained that he and his wife own another home that they currently live in, and until it sells, they would like to build the garage/accessory building to store their belongings in to help “de-clutter” their home on the market, and after the sale of their current occupied home, they would like to live in the accessory building as they build the new home in Ovilla.

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

Archie Crow – 801 Hosford Rd. – spoke in favor of the future neighbor, and is looking forward to their arrival.

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

None

**(Rebuttal or Final Comments:)**

None

**Chair Betik asked if City Hall had received any notices in favor or in opposition for this item. Sixteen (16) letters were mailed certified for notification and there were no responses received in opposition or in favor.**

**Chair Betik closed the Public Hearings at 7:37 p.m.**

**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION – Consideration of requested *Variance* filed by Mr. Ronald DeFord.**

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

PL2 Hilburn moved that the BOA deny the variance to Ronald DeFord at 800 Hosford Rd. for construction of an accessory building being built before the main dwelling exists as requested in BOA201516.03

PL4 Albright seconded the motion.

Record vote was called: *all being in favor of denial would vote “NAY”.*

**Record Vote:**

**ALBRIGHT                    NAY**

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

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

**CITY OF OVILLE MINUTES**  
**Tuesday, January 19, 2016**  
**Regular Board of Adjustment Meeting**

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BETIK	<u>NAY</u>
HILBURN	<u>NAY</u>
WARE	<u>ABSENT</u>
HAM	<u>ABSENT</u>
CAWLEY	<u>NAY</u>
RICHTSMEIER	<u>ABSENT</u>

**VOTE: The motion to deny carried 4-0.**

**Carol Richtsmeier PL1, Richard Ware Vice Chair, and Jeanne Ham PL6 were noted absent.**

**ITEM 2.** **\*\*At this time and due to the denial of his first appeal, the applicant requested to pull his second variance request, Item #2 - BOA201516.04 from the agenda for consideration\*\***

**ITEM 3.** **BOA201516.05 - Public Hearing and Discussion** of an appeal to the Ovila Code of Ordinances, Chapter 14, Section 30.6, Table 30.A NUMBER AND SIZE OF ACCESSORY BUILDINGS; filed by Mr. Tom Foster for a residential variance to construct an accessory building in excess of the maximum allowed amount per Ordinance, on his property located at 1908 Duncanville Rd.

**Chair Betik read aloud the captioned request and opened the Public Hearing at 7:56 p.m. (Testimony that followed was under proper oath; City Representative)**

Code Enforcement Officer Mike Dooly shared a brief summary and explained that the applicant applied for a variance on a 40 X 60, 2400 square foot building with 2 garage doors. He has an existing building that is 12,375 square foot used for an arena. The additional accessory building will house feed, equipment and animals. There is an existing temporary building that will be taken down if variance is allowed.

**(Testimony that followed was under proper oath; Applicant)**

Applicant Tom Foster explained that the additional square footage was needed for storage of equipment used for upkeep of his arena and property. Mr. Foster intended to include stalls to house the horses and all of their feed. He explained how the property used to be an "eyesore" and how much pride they have in their property, and how cleaned up it now is. Applicant presented photos of upgrades to the property. He explained that the new building will have stone side and front that will match the home.

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

None

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

Gary Weaver – 1900 S. Duncanville Rd. /PO Box 1687 Cedar Hill - Mr. Weaver wanted to start by explaining how angry he was regarding this variance coming before the BOA as well as the arena, that in his opinion, should not have been approved in 2014. His complaints were as follows:

a.) Explained that Mr. Foster said Staff gave Mr. Foster personal information

**CITY OF OVILLA MINUTES**  
**Tuesday, January 19, 2016**  
**Regular Board of Adjustment Meeting**

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- b.) Staff did not send his letter to the correct address on last building's notice.
- c.) Area smells terrible, and is infested with rats and snakes.
- d.) Strongly opposes. He believes that the whole area is very harmful to all neighbors that he talked to regarding this recent request.

Mr. Weaver read a letter from Mr. Martinez, a neighbor voicing opposition. He also presented Chair Betik a letter in opposition as a representative for Ms. McClure, another neighbor. Mr. Weaver also addressed the Land Use Table and property lines stating this request was unfair and unjust, and if BOA allowed this to be approved, they would not be doing their job.

**(Rebuttal or Final Comments:)**

Applicant explained that Mr. Weaver never addressed any of these issues with him. Mr. Foster also explained he never heard opposition from any of the other neighbors.

**Chair Betik asked if City Hall received any notices in favor or in opposition for this item. Thirteen (13) letters mailed certified and there was one response received from (Weaver) in opposition. No responses were received in favor.**

**Chair Betik closed the Public Hearings at 8:49 p.m.**

**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Mr. Tom Foster

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

PL4 Albright moved that the BOA deny the variance to Mr. Foster at 1908 Duncanville Rd. to construct an accessory building as presented in BOA201516.04. PL2 Hilburn seconded the motion.

Record vote was called: *all being in favor of denial would vote “NAY”.*

**Record Vote:**

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

***VOTE: The motion to deny carried 3-1.***

***Carol Richtsmeier PL1, Richard Ware Vice Chair, and Jeanne Ham PL6 were noted absent.***

*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 Ham, BOA PL6 (Alternate)  
Mike Dooly, Code Enforcement*

**CITY OF O'VILLA MINUTES**  
**Tuesday, January 19, 2016**  
**Regular Board of Adjustment Meeting**

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**Zoning Board of Adjustments Requests for Future Items**

N/A

**Adjournment** There being no further business, Chair Barbara Betik adjourned the meeting at 8:50 p.m.

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Barbara Betik, Chair

ATTEST:

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Glennell Miller, Board Secretary

Attachment: Facts of Findings Form (3)

*Approved on February 16, 2016*



# **City of OVILLA Board of Adjustment Findings of Fact for VARIANCE**

Applicant: RONALD DEFORD Case Number: BOA201516.03  
Address: 800 HOSFORD RD

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 30.1 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.		✓

*All findings must be determined in the affirmative for the variance to be granted.*

### **BOA Members present, and upon a record vote of:**

	FOR	AGAINST	ABSTAIN
<b>Member Jamie Hilburn</b>		✓	
<b>Chair Barbara Betik</b>		✓	
<b>Member Stephanie Albright</b>		✓	
<b>Alt. Member Sandra Cawley</b>		✓	
<b>Vice Chair Richard Ware</b>		ABSENT	
<b>Member Carol Richtsmeier</b>		ABSENT	
<b>Alt. Member Jeanne Ham</b>		ABSENT	

**TOTALS:**

0 FOR  
4 AGAINST  
0 ABSTAIN

The variance is hereby:  granted  denied

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## Presiding Officer of BOA

Date

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**City or Board Secretary**



## City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: RONALD DEFORD Case Number: BOA201516.04  
Address: 800 HOSFORD RD

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 30.6 – TABLE 30.A 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.		

*All findings must be determined in the affirmative for the variance to be granted.*

**BOA Members present, and upon a record vote of:**

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

**TOTALS:**

— FOR  
— AGAINST  
— ABSTAIN

The variance is hereby: \_\_\_\_\_ granted \_\_\_\_\_ denied

Presiding Officer of BOA

Date

City or Board Secretary



# **City of OVILLA Board of Adjustment Findings of Fact for VARIANCE**

Applicant: TOM FOSTER Case Number: BOA201516.05  
Address: 1908 DUNCANVILLE RD.

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 30.6 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.		✓

*All findings must be determined in the affirmative for the variance to be granted.*

BOA Members present, and upon a record vote of:

	FOR	AGAINST	ABSTAIN
<b>Member Jamie Hilburn</b>		✓	
<b>Chair Barbara Betik</b>		✓	
<b>Member Stephanie Albright</b>		✓	
<b>Alt. Member Sandra Cawley</b>	✓		
<b>Vice Chair Richard Ware</b>		ABSENT	
<b>Member Carol Richtsmeier</b>		ABSENT	
<b>Alt. Member Jeanne Ham</b>		ABSENT	

**TOTALS:**

1 FOR  
3 AGAINST  
0 ABSTAIN

The variance is hereby:  granted  denied

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**Presiding Officer of BOA**

Date

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**City or Board Secretary**

**CITY OF OVILLA MINUTES**  
**Tuesday, February 16, 2016**  
**Regular Board of Adjustment Meeting**

Chair Barbara Betik called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:06 p.m. with the following BOA members present, thus constituting a quorum:

Barbara Betik	Chair
Stephanie Albright	Board Member
Jamie Hilburn	Board Member
Carol Richtsmeier	Board Member
Sandra Cawley	Board Member (Alternate)

Absent: Richard Ware and Jeanne Ham

Code Enforcement Officer Mike Dooly was present.

PLI Richtsmeier called roll of members present, thus declaring a quorum. The Pledge of Allegiance was led at this time. Chair Betik outlined the evening's agenda and briefed those present on board procedures.

**COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS**

None

**CONSENT ITEM**

- Minutes of the January 19, 2016 BOA Meeting

No motion was made on this Consent Item due to a correction to be made. The Board was told that the audio would be pulled for clarification, and any corrections to be made. The corrected minutes would be brought back at the next regularly scheduled BOA Meeting for consideration of approval.

**PUBLIC HEARING**

**ITEM I. BOA201516.06 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.8 CARPORTS; filed by Mr. Nathan Archer for a residential variance to construct a carport on his property located at 212 Lariat Trail.

***Chair Betik read aloud the captioned request and opened the Public Hearing at 7:12 p.m. (Testimony that followed was under proper oath; City Representative)***

Code Enforcement Officer Mike Dooly shared a brief summary and explained that the applicant has already built the freestanding carport on his property and it is not attached to his home. Explained the square footage of this accessory building meets code. It is located at the end of his driveway, and angled in accordance with code. The structure has been up for over a month as of meeting this date.

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

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

**CITY OF OVILLA MINUTES**  
**Tuesday, February 16, 2016**  
**Regular Board of Adjustment Meeting**

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**(Testimony that followed was under proper oath; Applicant)**

Applicant explained that the reasons for constructing the carport was due to getting a new vehicle and needing it to be out of the elements. The applicant then explained that the garage at their home is being used as a storage "closet".

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

None

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

None

**(Rebuttal or Final Comments:)**

The applicant thanked the Board for their time in the matter, and apologized for not knowing the protocol and building without prior approval.

**Chair Betik asked if City Hall had received any notices in favor or in opposition for this item. Fourteen (14) letters were mailed certified for notification and there were no responses received in opposition or in favor.**

**Chair Betik closed the Public Hearings at 7:26 p.m.**

**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION – Consideration of requested **Variance** filed by Mr. Nathan Archer.**

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

PL2 Hilburn moved that the BOA approve the variance to Nathan Archer at 212 Lariat Trail for construction of carport BOA201516.06

PL1 Richtsmeier seconded the motion.

Record vote was called:

**Record Vote:**

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

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

**CITY OF O'VILLA MINUTES**  
**Tuesday, February 16, 2016**  
**Regular Board of Adjustment Meeting**

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**VOTE:** The motion to deny carried 4-1.

**Richard Ware Vice Chair, and Jeanne Ham PL6 were noted absent.**

**Zoning Board of Adjustments Requests for Future Items**

N/A

**Adjournment** There being no further business, Chair Barbara Betik adjourned the meeting at 7:37 p.m.

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Barbara Betik, Chair

ATTEST:

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Glennell Miller, Board Secretary

Attachment: Facts of Findings Form (1)

*Approved on March 21, 2016*

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

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



## City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: NATHAN ARCHER Case Number: BOA201516.06  
Address: 212 LARIAT TRAIL

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14; Section 30.8 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.	✓	

*All findings must be determined in the affirmative for the variance to be granted.*

**BOA Members present, and upon a record vote of:**

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

**TOTALS:**

4 - FOR  
1 - 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

March 21, 2016

**ITEM 1.** **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. Middleton for a special exception to leave his existing section of fence with the support rails on the outside on his property at 525 Savannah Dr.

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

**APPLICANT:** Eric Middleton  
**LOCATION:** 525 Savannah Dr.  
**ZONING:** R15 Residential

**NOTICES:** One public notice listed in the Waxahachie Daily Light; 23 certified letters mailed. City office has received no opposition notices.

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**APPLICANT'S PROPOSAL:**

Applicant requests to leave existing section of fence with the support rails on the outside.

**DISCUSSION:**

**The Ovilla Code of Ordinances, Chapter 14, Section 35.3, CONSTRUCTION MATERIAL 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 **special exception** based on the outcome 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 ERIC MIDDLETON AT 525 SAVANNAH DR, TO LEAVE HIS EXISTING SECTION OF FENCE WITH THE SUPPORT RAILS ON THE OUTSIDE, ON HIS PROPERTY, AS PRESENTED IN BOA201516.07."**

# City of Ovilla

Phone: (972) 617-7262  
Fax: (972) 515-3221

105 S. Cockrell Hill Rd.  
Ovilla, Texas 75154

## Residential Building Permit Application

Building Permit Number:	5101	Valuation:	5,000.00
Project Address:	525 SAVANNA H		
Lot:	Subdivision:		
Project Description:	NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: _____
	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:	6' side, by side, cedar w/metal posts & 6' board		
Description of Work:	to board w/cap & 6' iron		
Area Square Feet:	Covered	Total:	Number of stories:
Living:	Garage:	Porch:	

Name:	Eric Middleton	Contact Person:	
Address:			
Phone Number:	817-713-4237	Home Number	Mobile Number:

General Contractor	Contact Person	Phone Number	Contractor License Number
Hanson Iron Custom Fence Persola	Blake	972-775-3091 469-337-9335	
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: Carol Middleton

Date: 2/8/2016

### 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: \_\_\_\_\_

Denied- Poles  
constructed on  
OUTSIDE.  
mDay

Total Fees: \_\_\_\_\_  
Issued Date: \_\_\_\_\_  
Expires: 180 Days  
Issued By: \_\_\_\_\_

BV Project # \_\_\_\_\_

**SURVEY PLAT**

Town Square Title, G.F. No. 14712

RESS: 525 Savannah Drive, Ovilla, Texas.

, Block C, of Ovilla Parc, an addition to the City of Ovilla, Ellis County, Texas, according to map thereof recorded in Cabinet G, Slide 218, of the Plat Records, of Ellis County, Texas.

# **SAVANNAH DRIVE**

(50' R.O.W.)



TC 100.00

TC 98.52

(REFERENCE BEARING-PER PLAT)  
**N 71°04'20" E 101.00"**

back of curb

B.L. (plat)

99.2 1/2" IRF (CM)

phone pedestal

1/2" IRF

100.5

35.6

35.0'

11.4'

102.0

FG 102.80

BL 103.46

2.0'

8.6'

14.6'

13.2'

6.0'

7.8'

3.0'

14.4'

23.2'

7.6'

10' B.L. (plat)

42.2'

10.5'

12.0'

19.6'

16.7'

17.6'

FG 102.70

BL 103.46

15' B.L. (plat)

15' B.L. (plat)

15' Util. Esmt. (plat)

S 65°51'22" W 79.04"

7.5'

1/2" IRF

102.5

102.2

10' B.L. (plat)

0.6'

N 8°55'40" W 153.87"

ac

66.9'

29.5'

102.0

102.2

10' B.L. (plat)

102.2

10' B.L. (plat)

101.5

LOT 6

15' B.L. (plat)

101.5

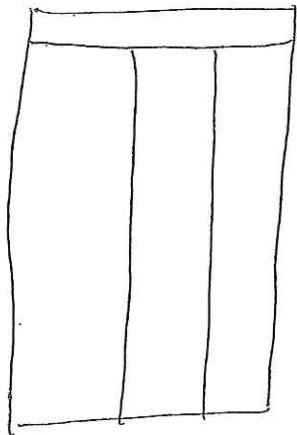
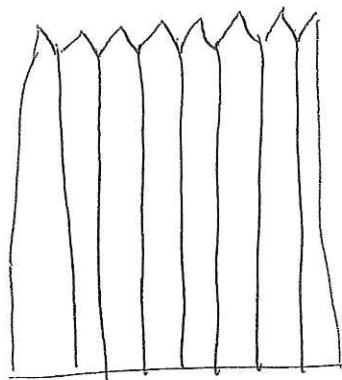
10' B.L. (plat)

101.5

ORIGINAL  
REQUEST: 5-20-2015

"POLES ON INSIDE"

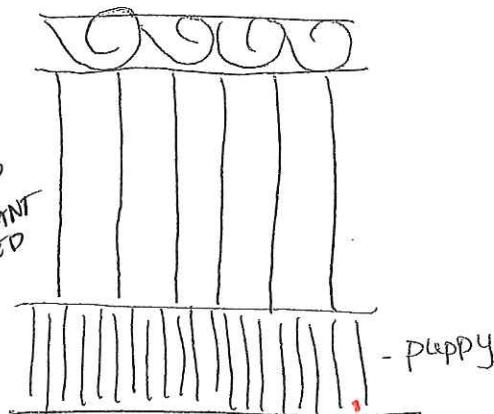
COPY



poles  
~~inside~~  
outside

2-8-16  
APPLICANT  
CHANGED

6 ft  
smooth side facing out



iron

- pleppy

# City of Ovilla

Phone: (972) 617-7262

105 S. Cockrell Hill Rd.

Fax: (972) 515-3221

Ovilla, Texas 75154

## Residential Building Permit Application

Building Permit Number:	4847		Valuation:	\$5,000.00		
Project Address:	525 SAVANNAH					
Lot:	Block:	Subdivision:				
Project Description:	NEW SFR	<input type="checkbox"/>	SFR REMODEL/ADDITION	<input type="checkbox"/>	SPECIFY OTHER:	<input type="checkbox"/>
	RE-INSPECTION/ADDITIONAL INSP	<input type="checkbox"/>	FLATWORK	<input type="checkbox"/>	SPRINKLER	<input type="checkbox"/>
	SWIMMING POOL	<input type="checkbox"/>	ACCESSORY BUILDING	<input type="checkbox"/>	FENCE	<input type="checkbox"/>
Proposed Use:	6' SIDE BY SIDE CEDAR W/METAL POSTS & 6' BOARD TO BOARD W/CAP & 6' IRON					
Description of Work:						
Area Square Feet:						
Living:	Covered	Garage:	Porch:	Total:	Number of stories:	

Name:	ERIC MIDDLETON	Contact Person:	
Address:			
Phone Number:	817-713-4257	Home Number	Mobile Number:

General Contractor	Contact Person	Phone Number	Contractor License Number
HANSON(IRON) Custom Fence & Pergola	Blake	972-775-3091 469-3379335	
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: Carol Middleton

Date: 5/20/15

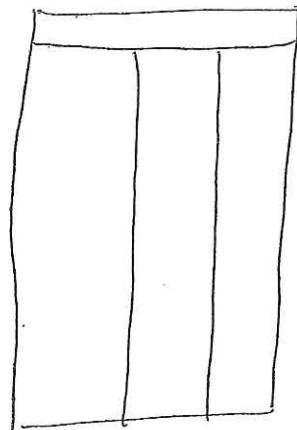
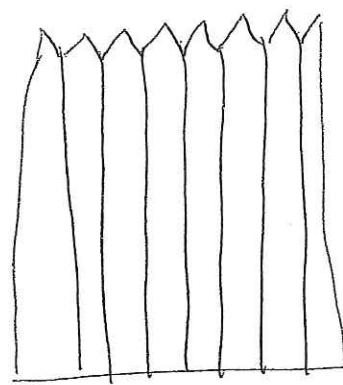
### OFFICE USE ONLY:

Approved by: <u>Mark Dow</u>	Date approved: <u>5-21-15</u>
Plan Review Fee: <u>25.00</u>	Receipt #: <u>5186</u>
Building Permit Fee: <u>25.00</u>	Receipt #: <u>5186</u>
Park Impact Fee: <u></u>	Total Fees: <u>50.00</u>
Capital Recovery Fee: <u></u>	Issued Date: <u>5-29-15</u>
Fire Meter: <u></u>	Expires: <u>180 Days</u>
Water Meter Cost: <u></u>	Issued By: <u>GM</u>
Water Impact: <u></u>	
Sewer Connection Fee: <u></u>	BV Project # <u></u>
Sewer Impact: <u></u>	
Fire Fee: <u></u>	

5/28 Talked to Carol

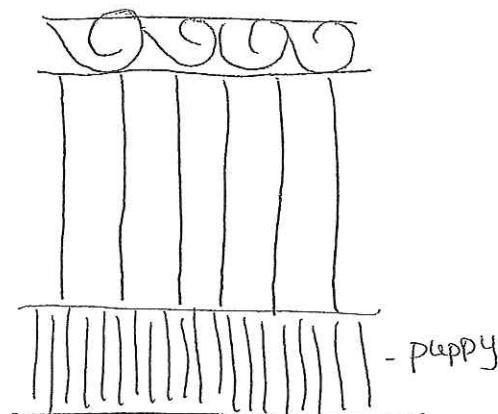
5.20.2015

COPY



poles  
inside

6 ft  
smooth side facing out



iron

- pleppy

## CHAPTER 14

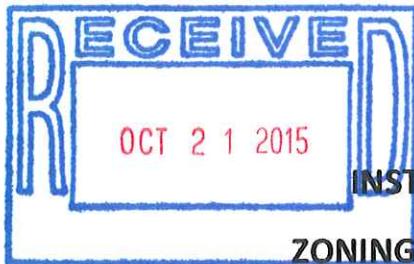
### ZONING

#### 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.

*(Ordinance 2010.015 adopted 8/9/10)*



## 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 201516.07



## 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.

When the fence was to be constructed.. The city of Ovilla was contacted in advance to determine city ordinances... What was verbally conveyed to land owner was that the main thing in the installation of a fence was that the posts were required to be in the owners property... Nothing was communicated by Mike Dooley or office staff other than this requirement.... My wife properly filed for a permit to build the fence... after applying for the permit it took almost 7 days to receive the permit via USPS mail... At that point the fence was already constructed based on verbal affirmation to Ovilla city code by Mr. Doyle and staff.... The fence posts reside on my property... Never during the discussions with MR Dooley or city of Ovilla office staff was it expressed to the land owner that the posts must face the land owners entire property... They are in the land owners property which was conveyed at application time but face my neighbors property.... The permit was mailed via USPS standard mail and as previously stated was not received prior to installation of the fence... Once received my wife properly displayed the permit in our window....Unfortunately my dogs ate the permit... We never actually knew that the fence posts must face our property.... Prior to installation of the fence I had a discussion with my neighbor Paul Nelson.. We agree that the fence posts needed to face his property... He had fears of my dogs and wished that they not be allowed to push open a fence pickets and that they rather be required to pull one to breach the property line... a more difficult task for a dog... The simple fact of the mater is that no land owner involved in this situation wants the existing fence changed from its current situs... All agree that the best resolution is to leave the fence as is and make no changes pursuant to city ordinances... Please see Paul Nelsons statement (attached) Party's affected don't a change from what now exists... Remedy was offered by MR Doyle that my Neighbor simply apply for a permit to build a fence... I pointed out to Mr. Doyle that the fence was 100% in my yard and my neighbor cannot apply to build a fence which is on my premise... He concurred... So I am forced to file for a variance...



**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.

**Literal interpretation of this ordinance would befall both the land owner and the shared property owners an undue hardship.... All concerned have stained/painted their side of the fence and alterations at this point would not be economically feasible... Nobody wants the change and doing so effects everyone's financial situation... A change at this point would create an undue economic hardship to all party's involved...**

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

**I contracted to build a fence.... I've done nothing out of malice nor do I benefit from this action....**

**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.

**No One is affected other than the parties sharing the confines of the fence... No building or other structure is affected....**

**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.

**No.... It is a shared back yard fence and although it is currently exposed to view outside of owners property that will change as the neighbor finishes his enclosure... Simply switching the sides of the posts would still expose the post side of the fence to be in public view due to Wrought Iron Fence in applicants yard...**

**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.

**Not applicable.... It is a fence.... It is used as a fence.... No other ordinance is affected....**



Case No. BOA 201516.07

## 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. 5

Property Address 525 Savannah

Block No. C

Zoning RC

The Applicant, Eric & Carol Middleh, of Ellis County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article       , Chapter 3, Section 3.05.006(b) of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

#### Sec. 3.05.006 Types of fence and construction

(b) Fences will be constructed in such a manner to ensure structural stability. Posts will be set in concrete of sufficient thickness to provide stability. Wooden fences: The posts and rails of a new or extended fence must not be exposed to an adjacent street, or a neighbor's yard, in other words, the smooth side of a fence must face an adjacent public street or a neighbor's property. Also, both new and replacement wooden fences must have metal posts set in concrete.

Has a previously appeal been filed on this property?

YES  NO

If YES, when was the previous appeal filed? \_\_\_\_\_



- Case No. BOA 201516.07

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 \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Telephone (Hm) \_\_\_\_\_

Telephone (Wk) \_\_\_\_\_

Email \_\_\_\_\_

*Carol Middleton*  
*Eric Schmidt*

10/19/15

Applicant's signature \_\_\_\_\_

Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



DATE: 3,21, 2016

- Case No. BOA 201516.07

\*\*\*\*\*

OFFICE USE ONLY

DATE RECEIVED: \_\_\_\_\_ HEARING DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DENIED: \_\_\_\_\_

BOA CHAIRMAN SIGNATURE: \_\_\_\_\_



PAUL D & MELINDA A NELSON  
410 MONTPELIER LN  
OVILLA, TX 75154-3327

October 19, 2015

I, Paul Nelson am fully aware of the code violation relating to the shared fence at my backyard with the Middleton's at 525 Savannah Dr., Ovilla, TX 75154. Prior to installing the fence, I had discussions with Mr Middleton as to the placement of the fence and expressed that I wanted the fence posts facing my property as a safety precaution to his pets. Since that time I have painted my side of the fence and I like the look and I do not want to incur other costs associated with any change... I do not want the fence moved or reconstructed which would merely change which side of the fence the posts reside. Please leave the fence as is and make no changes.

Sincerely,



Paul Nelson



## 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			
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**

**BOARD OF ADJUSTMENT**

AGENDA ITEM NO: 2

March 21, 2016

**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. Anderson for a variance to construct a front facing accessory building on his property at 609 Clinton St.

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

**APPLICANT:** Todd Anderson  
**LOCATION:** 609 Clinton St  
**ZONING:** R22 Residential

**NOTICES:** One public notice listed in the Waxahachie Daily Light; 17 certified letters mailed. City office has received no opposition notices.

---

**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 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** based on the outcome 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 TODD ANDERSON AT 609 CLINTON ST, TO CONSTRUCT A FRONT FACING ACCESSORY BUILDING ON HIS PROPERTY, AS PRESENTED IN BOA201516.08."***

# City of Ovilla

Phone: (972) 617-7262  
Fax: (972) 515-3221

105 S. Cockrell Hill Rd.  
Ovilla, Texas 75154

## Residential Building Permit Application

Building Permit Number:	5103			Valuation: \$15,000
				Valuation w/land:
Project Address:	609 CLINTON ST.			
Lot:	5	Subdivision:	HIGHLAND MEADOWS OF OVILLE	
Project Description:	NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: _____	
	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"/>	
Proposed Use:	BOAT STORAGE			
Description of Work:	DETACHED GARAGE / SHOP (way with Composition Roof)			
Area Square Feet:	Covered	Porch:	Total:	Number of stories: 1
Living:	Garage: 14x30			

Name: Todd Anderson	Contact Person: Todd Anderson
Address: 609 CLINTON ST.	
Phone Number: 214-869-7578	Home Number _____
	Mobile Number: _____

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

Date: 2-10-16

### 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 - Front facing  
Accessory Building

maurz

BV Project # \_\_\_\_\_

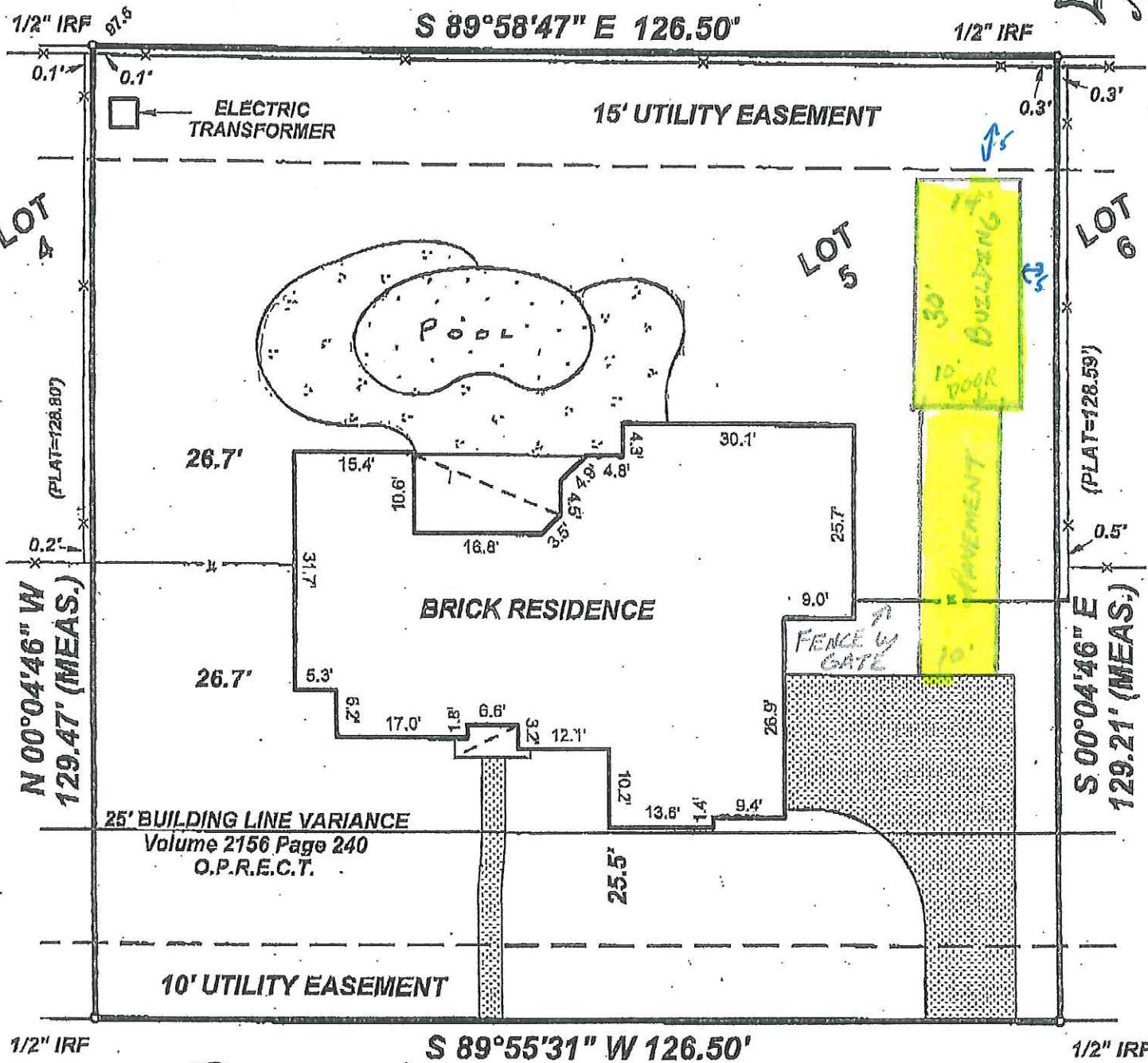
# SURVEY PLAT

This is to certify that I have, this date, made a careful and accurate survey on the ground of the property located at 609 Clinton Street, all that certain lot, tract or parcel of land being known as Lot 5, Block A, HIGHLAND MEADOW, an Addition to the City of Ovilla, Ellis County, Texas, according to the plat thereof recorded in Cabinet F, Slide 40, Plat Records, Ellis County, Texas.

The property shown hereon is located in Zone "X" according to Community Panel Number 48139C0080 D, of the U. S. Department of Housing and Urban Development Flood Hazard Boundary Map Dated January 20, 1999.

Note: Easements as recorded in Volume 602, Page 208 and Volume 1277, Page 569, Deed Records, Ellis County, Texas, do not to the best of my knowledge and belief affect the herein described property.

North



CLINTON STREET  
(50' R.O.W.)

Michael J. C.  
Surveyor



## 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 it [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 201516-08



## 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. I HAVE A SWIMMING POOL IN my BACKYARD THAT KEEPS ME FROM BUILDING THE GARAGE AT A 90° FROM THE STREET. THE POOL WAS THERE WHEN I BOUGHT THE HOUSE.

**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 PROPERTY OWNERS HAVE ACCESSORY BUILDINGS

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

NO. PROPERTY IS IN THE SAME CONDITION AS WHEN I BOUGHT IT.

**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.

MY BUILDING WILL LOOK PROFESSIONALLY INSTALLED  
AND MANUFACTURED. IT WILL ALSO BE INSTALLED  
BEHIND MY FENCE AND NOT EASILY SEEN.

**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 BUILDING 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 201516.08

## 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. 5

Property Address 609 Clinton

Block No. A

Ovilla Tx

Zoning RE

The Applicant, MICHAEL TODD ANDERSON, of Ellis County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article       , Chapter 14, Section 30.3C of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

I AM REQUESTING A VARIANCE TO HAVE A BUILDING BUILT TO STORE MY BASS BOAT. CITY ORDINANCE STATES THAT ALL GARAGE DOORS MUST BE AT A 90° ANGLE FROM THE STREET. THIS ISN'T POSSIBLE BECAUSE OF MY SWIMMING POOL. I NEED THIS BUILDING TO PROTECT THE VALUE AND CONDITION OF MY BOAT AND ITS CONTENTS.

Has a previously appeal been filed on this property?

YES  NO

If YES, when was the previous appeal filed? \_\_\_\_\_



- Case No. BOA 201516.08

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 MICHAEL TODD ANDERSON

Mailing Address 609 CLINTON ST.  
OVILLA, TX 75154

Telephone (Hm) 214-869-7578 (CELL)

Telephone (Wk) 972-285-0263 x110

Email todd4546@sbcg10.bal.net

  
\_\_\_\_\_  
Applicant's signature

2-16-16  
\_\_\_\_\_  
Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



DATE: \_\_\_\_\_

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\*\*\*\*\*

OFFICE USE ONLY

DATE RECEIVED: \_\_\_\_\_ HEARING DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DENIED: \_\_\_\_\_

BOA CHAIRMAN SIGNATURE: \_\_\_\_\_





## 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			
Vice-Chair Barbara Betik			
Member Stephanie Albright			
Member Patricia Rarick			
Member Richard Ware			
Alt. Member Carol Richtsmeier			
Alt. Member Jeanne Ham			

TOTALS:

FOR  
AGAINST  
ABSTAIN

The variance is hereby: granted denied

Presiding Officer of BOA

Date

City or Board Secretary