

## **AGENDA**

**Zoning Board of Adjustment Meeting  
105 S. Cockrell Hill Road, Ovilla, Texas 75154  
OCTOBER 17, 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, October 17, 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

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

None

### **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 September 19, 2016 BOA Meeting

### **Individual Consideration**

#### ***Tabled Items from the August 15 & September 19, 2016, Regular BOA Meeting:***

**ITEM 1.** **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of Adjustment.

***Consider motion to remove item from table-***

***Consider Action on Item.***

**ITEM 2.** **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of Adjustment.

***Consider motion to remove item from table-***

***Consider Action on Item.***

**ITEM 3.** **BOA201516.12 – PUBLIC HEARING/DISCUSSION** of an appeal to the Ovilla Code of Ordinances Chapter 14 Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Mr. Mohomad Soueid for special exception to construct a fence with posts/rails on the outside on his property located at 121 Robin Glen Ln.

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

*Consider motion to remove item from table-*

*Consider Action on Item.*

**ITEM 4.** **DISCUSSION/ACTION** – Consideration of any item(s) pulled from the Consent Agenda above for individual consideration and action.

#### **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.*

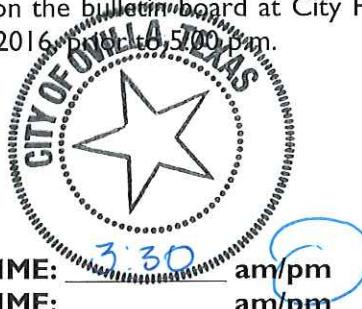
#### **Adjournment**

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **October 17, 2016 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 14th day of October 2016, prior to 5:00 p.m.

  
\_\_\_\_\_  
Glennell Miller  
Board Secretary

**DATE OF POSTING:** \_\_\_\_\_  
**DATE TAKEN DOWN:** \_\_\_\_\_

10-14-2016 GM  
10-XX-2016 TIME: 3:30 am/pm  
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**  
**Tuesday, September 19, 2016**  
**Regular Board of Adjustment Meeting**

\*City Secretary administered Oath for the Zoning Board of Adjustment Prior to meeting\*

Vice Chair Richard Ware called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:09 p.m. with the following BOA members present, thus constituting a quorum:

Richard Ware	Vice Chair
John Knight	Board Member
Carol Richtsmeier	Board Member
Ozzie Molina	Board Member (Alt.)

Absent: Barbara Betik PL3, Sandra Cawley PL4, Stephanie Heimbuch PL7

Code Enforcement Officer Mike Dooly was noted present.

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

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

- Newly Appointed Member John Knight – PL2 \*

**CONSENT ITEM**

- Minutes of the August 15, 2016 BOA Meeting

PLI Richtsmeier made the motion that the BOA approve the consent item as presented.

PL6 Molina seconded the motion.

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

**Chair Betik PL3, PL4 Cawley, & PL7 Heimbuch were noted absent.**

***Tabled Items from the August 15, 2016, Regular BOA Meeting:***

**ITEM 1.**      **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of Adjustment.

**Motion was made by PL2 Knight to leave Item 1 on the Table until next regularly scheduled BOA Meeting.**

**Motion to Second: PLI Richtsmeier.**

**Motion carried with 4-0 Vote.**

**ITEM 2.**      **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of Adjustment.

**Motion was made by PL2 Knight to leave Item 2 on the Table until next regularly scheduled BOA Meeting.**

**Motion to Second: PLI Richtsmeier.**

**Motion carried with 4-0 Vote.**

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

**ITEM 3.** **BOA201516.12 – PUBLIC HEARING/DISCUSSION** of an appeal to the Ovilla Code of Ordinances Chapter 14 Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Mr. Mohomad Soueid for special exception to construct a fence with posts/rails on the outside on his property located at 121 Robin Glen Ln.

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

**Motion was made by PL2 Knight to leave Item 1 on the Table until next regularly scheduled BOA Meeting.**

**Motion to Second: PL1 Richtsmeier.**

**Motion carried with 4-0 Vote.**

**PUBLIC HEARING**

**ITEM 4.** **BOA201516.13 - 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. Carlos Flores for a special exception to construct a fence to the building line on his property located at 51 E W Banton 12.208 Acres (Malloy Road).

**Vice Chair Ware read aloud the captioned request and opened the Public Hearing at 7:20p.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 not started construction on the main dwelling, but would like to put a fence around entire property to contain cows. Ordinance states that building on the property line is not allowed, however, a variance may be requested. He explained that his fence will be in line with the neighbors existing fence line.

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

Adrianna Arianes - 6750 natures Way, Dallas TX – Acquaintance of applicant and speaking on his behalf. She explained that the applicant would like to keep the home in line with the neighbor's house and existing fence line. The property is very shallow, which limits where construction of the home or fence can be placed. Wanting to remain uniform with the surrounding neighborhood is the main motive for the applicant.

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

Todd Mashaw – 617 Malloy Rd. – Explained that he was in support and that he was the neighbor that the applicant's representative was talking about. He stated that he too would like for applicant to keep home and fence in line with his home and fence for a more uniform look.

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

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

**None**

**(Rebuttal or Final Comments:)**

No further comments.

**Vice Chair Ware asked if City Hall had received any notices in favor or in opposition of this item. Eighteen (18) letters were mailed certified for notification and there was one response by phone received in favor.**

**Vice Chair Ware closed the Public Hearing at 7:25 p.m.**

**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION – Consideration of requested *Special Exception* filed by Mr. Carlos Flores.**

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

PL1 Richtsmeier moved that the BOA APPROVE the special exception to Carlos Flores at 51 E W Banton 12.208 Acres for a fence to be construction on the property line as presented in BOA201516.13

PL6 Molina seconded the motion.

Record vote was called:

**Record Vote:**

RICHTSMEIER	<u>AYE</u>
BETIK	<u>ABSENT</u>
CAWLEY	<u>ABSENT</u>
WARE	<u>AYE</u>
MOLINA	<u>AYE</u>
KNIGHT	<u>AYE</u>
HEIMBUCH	<u>ABSENT</u>

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

***Chair Betik PL3, PL4 Cawley, & PL7 Heimbuch were noted absent.***

**ITEM 5. BOA201516.14 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.8 CARPORTS; filed by Mr. Homero Rodriguez for a variance to construct a detached carport on his property located at 109 Greenwood Dr.

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

3

John Knight, BOA PL2  
Sandra Cawley, BOA PL4  
Ozzie Molina, BOA PL6 (Alternate)  
Mike Dooly, Code Enforcement

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

**Vice Chair Ware read aloud the captioned request and opened the Public Hearing at 7:32 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 built the home on the property without a garage due to owning large trucks that would need more room than a standard garage would provide.

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

The applicant explained that the home was built without garage and is in need of a carport. He stated he needed a large enough space for large trucks and family gatherings.

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

Stephen Feidler – 104 Greenwood: neighbor speaking in support. He explained property is well taken care of and building is well behind area that makes it very unnoticeable. All of the property has a very neat appearance.

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

None

**(Rebuttal or Final Comments:)**

None

**Vice Chair Ware asked if City Hall had received any notices in favor or in opposition for this item. Twelve (12) letters were mailed certified for notification and there were no responses received in opposition or in favor.**

**Vice Chair Ware closed the Public Hearing at 7:45 p.m.**

**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION – Consideration of requested Variance filed by Mr. Homero Rodriguez.**

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

PL2 Knight moved that the BOA APPROVE the Variance - ***with the stipulation of attaching the carport to the home*** - to applicant Homero Rodriguez at 109 Greenwood in BOA201516.14.

PL6 Molina seconded the motion.

Record vote was called:

**Record Vote:**

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

4

John Knight, BOA PL2  
Sandra Cawley, BOA PL4  
Ozzie Molina, BOA PL6 (Alternate)  
Mike Dooly, Code Enforcement

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

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RICHTSMEIER	<u>AYE</u>
BETIK	<u>ABSENT</u>
CAWLEY	<u>ABSENT</u>
WARE	<u>AYE</u>
MOLINA	<u>AYE</u>
KNIGHT	<u>AYE</u>
HEIMBUCH	<u>ABSENT</u>

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

Chair Betik PL3, PL4 Cawley, & PL7 Heimbuch were noted absent.

**ITEM 6.** **BOA201516.15 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.6 NUMBER AND SIZE OF ACCESSORY BUILDINGS; filed by Mr. Homero Rodriguez for a variance to construct a detached carport over the allowed amount of square footage per lot size on his property located at 109 Greenwood Dr.

**Vice Chair Ware read aloud the captioned request and opened the Public Hearing at 7:55 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 built the home on the property with a building already existing at the back of the lot that measures approximately 1,192 square feet. The carport that is to be constructed will be 676 square ft. which goes over the allowed amount by approximately 768 square ft.

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

Applicant explained that the home was built without garage and needs a carport. He stated he needs a large enough space for large trucks and family gatherings. The carport is approximately 6-9 feet from house, and the slab measures 25' (ft.) X 25' (ft.)

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

Stephen Feidler – 104 Greenwood: neighbor, and is in support. Property is well maintained and reiterated that the carport sits well enough behind the home, which makes it very hard to see.

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

None

**(Rebuttal or Final Comments:)**

None

**Vice Chair Ware asked if City Hall had received any notices in favor or in opposition for this item. Twelve (12) letters were mailed certified for notification and there were no responses received in opposition or in favor.**

**Vice Chair Ware closed the Public Hearing at 8:00 p.m.**

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

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**INDIVIDUAL CONSIDERATION**

**DISCUSSION/ACTION** – Consideration of requested **Variance** filed by Mr. Homero Rodriguez.

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

PL2 Knight moved that the BOA APPROVE the Variance to construct detached carport over the allowed amount of square footage per lot to Homero Rodriguez at 109 Greenwood in BOA201516.15.

PL1 Richtsmeier seconded the motion.

Record vote was called:

**Record Vote:**

RICHTSMEIER	<u>AYE</u>
BETIK	<u>ABSENT</u>
CAWLEY	<u>ABSENT</u>
WARE	<u>AYE</u>
MOLINA	<u>AYE</u>
KNIGHT	<u>AYE</u>
HEIMBUCH	<u>ABSENT</u>

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

***Chair Betik PL3, PL4 Cawley, & PL7 Heimbuch were noted absent.***

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

N/A

**Adjournment** There being no further business, Vice Chair Richard Ware adjourned the meeting at 8:05 p.m.

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Richard Ware, Vice Chair

ATTEST:

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Glennell Miller, Board Secretary

**Approved on October 17, 2016**

Attachment: Facts of Findings Form(s) (3)

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

6

John Knight, BOA PL2  
Sandra Cawley, BOA PL4  
Ozzie Molina, BOA PL6 (Alternate)  
Mike Dooly, Code Enforcement

AGENDA ITEM REPORT

Item: 1

**TABLED ITEM**

*Tabled Item from the August & September 2016, Regular BOA Meeting:*

**ITEM I.** **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of adjustment.

**Consider motion to remove item from table-**

**Consider Action on Item.**

**DISCUSSION & ACTION**

**Meeting Date:** October 17, 2016

**Attachments:**

1. Refer to the attached pages 14A-120 through 14A-121 of the Ovilla Code of Ordinance Book.

**Agenda Item / Topic:**

**ITEM I. DISCUSSION/ACTION** - Consider nominations and appointment of Chair to the Board of Adjustment.

**Discussion / Justification:**

Chapter 14, Section 45.2 & 45.4, of the Ovilla Code of Ordinances defines duties and terms of members and appointment of the chair and vice-chair. The chair and vice-chair will serve for a term of one year or until a successor is appointed.

**Recommendation / Staff Comments:**

N/A

**Sample Motion(s):**

**I NOMINATE \_\_\_\_\_ TO SERVE AS CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**ANY OTHER NOMINATIONS?**

**"I MAKE THE MOTION THAT THE COMMISSION APPOINTS \_\_\_\_\_ AS CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

## **Section 44 - Completion of Buildings Under Construction**

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

## **Section 45 - Zoning Board of Adjustment**

### **45.1 ESTABLISHMENT**

A. Composition. A Zoning Board of Adjustment is hereby established and shall consist of five regular members and two alternate members to be appointed by the City Council. Each member shall be appointed for a term of two years by the City Council. Alternate members shall serve in the absence of regular member(s) in keeping with rules and procedures adopted by the Zoning Board of Adjustment.

B. Removal. Members of the Zoning Board of Adjustment may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the city council for the unexpired term of the member affected.

C. Quorum. All cases to be heard by the Zoning Board of Adjustment must be heard by a minimum number of four members.

D. Cause for Removal. Cause for removal shall include missing more than two consecutive meetings or three meetings in any one twelve (12) month period or such other misconduct as the City Council may establish by resolution.

### **45.2 TERMS OF OFFICE**

A. Terms. Each member shall serve a term of office of two years. After the expiration of a two year term of office, a member shall serve until a successor is appointed. The terms of three of the members shall expire on the first Monday in June of each odd-numbered year, and the terms of two of the members shall expire on the first Monday in June of each even-numbered year.

B. Places. The members of the Board shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years.

### **45.3 PROCEDURE**

A. Meetings.

1. The Board shall hold an organizational meeting on the first Monday in July of each year and shall elect a chair and a vice-chair from among its members before proceeding to any other matters of business.

AGENDA ITEM REPORT

Item: 2

**TABLED ITEM**

*Tabled Item from the August & September 2016, Regular BOA Meeting:*

**ITEM 2.** **DISCUSSION/ACTION** – Consider nominations and appointment of Vice Chair to the Board of adjustment.

**Consider motion to remove item from table-**

**Consider Action on Item.**

**DISCUSSION & ACTION**

**Meeting Date:** October 17, 2016

**Attachments:**

1. Refer to the attached pages 14A-120 through 14A-121 of the Ovilla Code of Ordinance Book.

**Agenda Item / Topic:**

**ITEM 2. DISCUSSION/ACTION** - Consider nominations and appointment of Vice Chair to the Board of Adjustment.

**Discussion / Justification:**

Chapter 14, Section 45.2 & 45.4, of the Ovilla Code of Ordinances defines duties and terms of members and appointment of the chair and vice-chair. The chair and vice-chair will serve for a term of one year or until a successor is appointed.

**Recommendation / Staff Comments:**

N/A

**Sample Motion(s):**

**I NOMINATE \_\_\_\_\_ TO SERVE AS CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**ANY OTHER NOMINATIONS?**

**"I MAKE THE MOTION THAT THE COMMISSION APPOINTS \_\_\_\_\_ AS VICE CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

## Section 44 - Completion of Buildings Under Construction

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

## Section 45 - Zoning Board of Adjustment

### 45.1 ESTABLISHMENT

A. Composition. A Zoning Board of Adjustment is hereby established and shall consist of five regular members and two alternate members to be appointed by the City Council. Each member shall be appointed for a term of two years by the City Council. Alternate members shall serve in the absence of regular member(s) in keeping with rules and procedures adopted by the Zoning Board of Adjustment.

B. Removal. Members of the Zoning Board of Adjustment may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the city council for the unexpired term of the member affected.

C. Quorum. All cases to be heard by the Zoning Board of Adjustment must be heard by a minimum number of four members.

D. Cause for Removal. Cause for removal shall include missing more than two consecutive meetings or three meetings in any one twelve (12) month period or such other misconduct as the City Council may establish by resolution.

### 45.2 TERMS OF OFFICE

A. Terms. Each member shall serve a term of office of two years. After the expiration of a two year term of office, a member shall serve until a successor is appointed. The terms of three of the members shall expire on the first Monday in June of each odd-numbered year, and the terms of two of the members shall expire on the first Monday in June of each even-numbered year.

B. Places. The members of the Board shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years.

### 45.3 PROCEDURE

#### A. Meetings.

1. The Board shall hold an organizational meeting on the first Monday in July of each year and shall elect a chair and a vice-chair from among its members before proceeding to any other matters of business.

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

### Item: 3

#### *Tabled Items from the August & September 2016, Regular BOA Meeting:*

**ITEM 3.** **BOA201516.12 – 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. Mohomad Soueid for a special exception to construct a fence with posts/rails on the outside on his property located at 121 Robin Glen Ln.

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

*Consider motion to remove item from table-*

*Consider Action on Item.*

## PUBLIC HEARING & DISCUSSION

Meeting Date: OCTOBER 17, 2016

Reviewed By:  City Manager  City Secretary  Code Enforcement  
 Board Secretary

#### Attachments:

1. Permit Application
2. Survey
3. Special Exception Application
4. Findings of Fact

#### Agenda Item / Topic:

**ITEM 3.** **BOA201516.12 - 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. Mohomad Soueid for a special exception to construct a fence with posts/rails on the outside on his property located at 121 Robin Glen Ln.

**DISCUSSION/ACTION – Consideration of requested Special Exception** filed by Mr. Mohomad Soueid.

#### Discussion / Justification:

**APPLICANT:** Mohomad Soueid  
**LOCATION:** 121 Robin Glen Ln.  
**ZONING:** R22 Residential

**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)

<b>BOARD DISCUSSION:</b>	The Board is allowed to grant a <i>special exception</i> under certain circumstances & after review of the <i>Findings of Fact</i> form.
<b>NOTICES:</b>	One public notice listed in the Waxahachie Daily Light; 18 certified and regular letters mailed. There have been 4 responses in opposition.
<b>Recommendation / Staff Comments:</b>	
None	
<b>Sample Motion(s):</b>	
<p><b><i>"I MAKE A MOTION THAT THE BOA GRANTS &amp; APPROVES/DENIES THE SPECIAL EXCEPTION TO MOHOMAD SOUEID AT 121 ROBIN GLEN LN, TO CONSTRUCT HIS FENCE WITH THE SUPPORT POSTS/RAILS ON THE OUTSIDE, ON HIS PROPERTY, AS PRESENTED IN BOA201516.12"</i></b></p>	

# 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:	5230	Valuation:	\$15000.00
Project Address:	121 Robin Glen Ln.		
Lot:	11. B.E.	Subdivision:	Asbury Glen
Project Description:	<input type="checkbox"/> NEW SFR <input type="checkbox"/> PLUMBING/ELECTRICAL <input type="checkbox"/> SWIMMING POOL		
	<input type="checkbox"/> SFR REMODEL/ADDITION <input type="checkbox"/> FLATWORK <input type="checkbox"/> ACCESSORY BUILDING		
	<input type="checkbox"/> SPECIFY OTHER: <input type="checkbox"/> SPRINKLER <input checked="" type="checkbox"/> FENCE		
Proposed Use:			
Description of Work:	Replacing FENCE		
Area Square Feet:	Covered	Porch:	Total:
Living:			
Garage:			Number of stories:

Name:	Mohamed Soueid	Contact Person:	
Address:	121 Robin Glen Ln.		
Phone Number:		Home Number	Mobile Number: 214 980 8060

General Contractor	Contact Person	Phone Number	Contractor License Number
	Mohamed Soueid	214 980 8020	
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.

COPY

Signature of Applicant: 

Date: 6/23/16

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

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

*Denied Poles and Rails  
on outside.*

*Variance Requested*

BOA# 201516-12

# BUILDING PERMIT

CITY OF OVILLA

P.O. BOX 5047, OVILLA, TEXAS 75154

Application No.

PERMIT NO.

No. 5230

Location 121 ROBIN GREN LN.

Description FENCE

Owner MOHAMAD SOUEID

Date 4/23/2016

This Permit To Be Posted In Conspicuous Place On Site  
Building Inspector \_\_\_\_\_

CO<sup>PY</sup>

BOA201516.12

**SURVEY PLAT**

**TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:**

This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at

No. 121 Robin Glen Lane in the city of Orilla, Texas, described as follows:

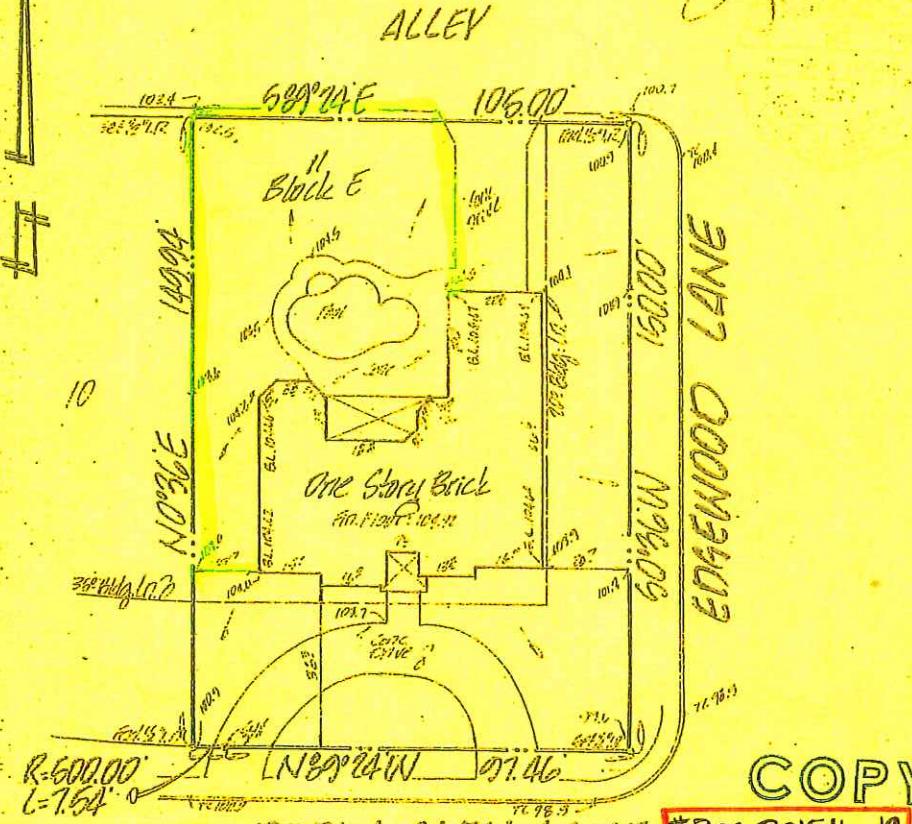
Lot No. 111 part certain lot, tract or parcel of land being lot 11, Block No. E of Phase II, Ashmore Glen Estates, Addition, an addition of the City of Orilla, Ellis County, Texas, according to the map, in volume Volume 6, recorded in Orilla, in Book 109 of the Plat Records of ELLIS COUNTY, TEXAS.

The plat is a true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat; the size, location, and type of buildings and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distances indicated, and that the distance from the nearest intersecting street, or road, is as shown on said plat.

**THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT**

*Poles and wires  
on outside*

Registered Professional Land Surveyor



**COPY**

#BOA 201516-12

NOTE: This tract does not appear to be within a designated 100% Flood Plain, per the Flood Insurance Rate Map, Community Panel No. 481159-0000C, Map Revised: January 6, 1988, Zone C.

NOTE: The following tract contains the tract affected by the tract:

- 1) Vol. 112, Pg. 115, lot 1, 215, Pg. 321; Vol. 332, Pg. 322; Vol. 244, Pg. 223, Pg. 306, Pg. 311, Vol. 21, Pg. 4, and Vol. 554, Pg. 336

Scale 1" = 30 Date 10-17-05  
Job No. 95-1621

GF No. \_\_\_\_\_

Fugate Surveying, Inc.

235 EAST BELT LINE ROAD  
DE SOTO, TEXAS 75115  
223-0740 FAX 230-0825

## 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 A **SPECIAL EXCEPTION**



## TO THE OVILLA BOARD OF ADJUSTMENT

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### Definition of *Special Exception* from Ovilla Codification Ord. 2010-023

A use that would not be generally appropriate without restriction throughout the zoning district but which, if controlled as to number, area, location, intensity or relation to the neighborhood, would or could be compatible therein and promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted as Special Exceptions by the Board of Adjustment, after a Public Hearing thereon.

This instruction page is provided for your information and aid in filling out this **SPECIAL EXCEPTION** 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 three conditions must be found to exist by the Board of Adjustment in order for a **SPECIAL EXCEPTION** request to be granted. They are:

**Condition 1:** That the use is specifically permitted under the ordinance and the requirements for such use are met; and

**Condition 2:** That the locations of proposed activities and improvements are clearly defined on the site plan filed by the applicant; and

**Condition 3:** That the **SPECIAL EXCEPTION** will be wholly compatible with the use and permitted development of adjacent properties.

The burden of showing these three conditions is on the applicant/owner. 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 photos, documents, etc submitted will become part of the permanent file of the City of Ovilla.

All three conditions are required to be met in order for the Board of Adjustment to grant your special exception. Failure to state how your **SPECIAL EXCEPTION** request meets these conditions in your application will result in its return without being submitted to the Board of Adjustment.

BOA 201516.12

COPY



Case No. BOA 201516.11

~~REQUEST FOR A VARIANCE~~

**SPECIAL EXCEPTION**

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. 11 Blk. B

Property Address 121 Robin Glen Ln.

Block No. E

Ovilla, TX 75149

Zoning R-22

The Applicant, Mohamed Soveid, 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.

*to put the pool out side.*

Has a previously appeal been filed on this property?

YES  NO

**COPY**

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

~~VARIANCE~~

**SPECIAL  
EXCEPTION**

Case No. BOA 201516.12

The Applicant/Owner, MOHOMAD SOUEID, of ELLS County, requests that the Ovilla Board of Adjustment grant the following SPECIAL EXCEPTION to Chapter 14, Section 35.3, Paragraph \_\_\_\_\_ of the Ovilla City Code. Please state in detail what type of SPECIAL EXCEPTION you are seeking, attach additional sheets if necessary.

TO PUT POLES ON OUTSIDE OF  
FENCE

Has a previous appeal been filed on this property?

YES / NO

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



*COPY*

## CONDITIONS NECESSARY FOR GRANTING A SPECIAL EXCEPTION

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

**CONDITION 1:** Requires that the use is specifically permitted under the ordinance and the requirements for such use are met; and

"IT HAS BEEN THAT WAY SINCE I  
BOUGHT IT!"

**CONDITION 2:** Requires that the locations of proposed activities and improvements are clearly defined on the site plan filed by the applicant; and

"IT WAS THIS WAY WHEN I PURCHASED  
THE PROPERTY, I WOULD LIKE TO KEEP  
IT THAT WAY!"

**CONDITION 3:** Requires that the SPECIAL EXCEPTION will be wholly compatible with the use and permitted development of adjacent properties.

"OTHER HOMES ARE THE SAME WAY, POLES  
ON THE OUTSIDE!"

*All three conditions are required to be met in order for the Board of Adjustment to grant your SPECIAL EXCEPTION. Failure to state how your SPECIAL EXCEPTION request meets these conditions in your application will result in its return without being submitted to the Board of Adjustment.*



*COPY*



- Case No. BOA 201516-12

I have completed the following requirements:

- Paid the filing fee of \$200.00 (checks made payable to "City of Ovilla")
- Submitted a scaled plot/site plan
- 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 Mohammad Soueid

Mailing Address 121 Robin Glen Ln.  
Ovillia, TX 75154

Telephone (Hm) 2

Telephone (Wk) 214 980 8020

Email jonaya.soueid@yahoo.com

Moh. Soueid

6/23/16

Applicant's signature

Date

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

**COPY**

~~VARIANCE~~

**SPECIAL  
EXCEPTION**

Page 5

**From:** Mike Lennington <mikethepoolman@att.net>  
**Sent:** Thursday, August 11, 2016 9:14 AM  
**To:** Glennell Miller  
**Subject:** 121 Robin Glen Lane

I live across the street from the house at 121 Robin Glen Lane. I am getting ready to replace my fence and if you allow this appeal for having the posts and rails on the outside of the fence then this is exactly how I am going to rebuild my fence. If you're going to allow one exception then you might as well repeal the ordinance. By allowing this one exception you have open the door for everyone else in the addition to do the exact same thing without asking permission or for an exception to the ordinance. If his appeal is granted then I'm just going to go ahead and rebuild my fence with the posts and support rails on the outside and will not even ask permission because you will have already set the precedent for allowing it to be done. I will wait to start until after the hearing on the 15th , but we'll begin redoing my fence by the 20th in the post will be on the outside along with the support rails

*Sent from my Verizon Wireless 4G LTE DROID*

City of Orville - Board of Adjustment

Thank you for your notice of the request for building fence - Address

121 Robin Glen

Robert & I (Selma), at 114 Robin Glen oppose the request to place Post & rails on the outside. This is very unsightly from outside.

We believe everyone should follow the rules of Orville Code of Ordinances as required. If not what good are Ordinances.

Although there are many fences with post & rails outside - they are required to change when replaced

Sorry we are unable to attend the meeting. Hope this letter is sufficient.

I thank you,  
Selma & Robert McAllister  
114 Robin Glen Lane  
Orville, Ia 5154

## **Glenell Miller**

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**From:** Pam Woodall  
**Sent:** Monday, September 19, 2016 11:35 AM  
**To:** Glenell Miller  
**Subject:** FW: 121 ROBIN GLEN LANE, OVILLA

**From:** Michael Myers |  
**Sent:** Monday, September 19, 2016 8:45 AM  
**To:** Pam Woodall <PWoodall@cityofovilla.org>  
**Subject:** Fw: 121 ROBIN GLEN LANE, OVILLA

Pam

Please put in packet for BOA for tonights meeting.

Thanks

Mike Myers  
President AGHOA  
HO----- Forwarded Message -----  
**From:** Mary Cavanaugh.  
**To:** President  
**Sent:** Sunday, September 18, 2016 12:43 PM  
**Subject:** RE: 121 ROBIN GLEN LANE, OVILLA

Mike,

I do not think the new fence at 121 Robin Glen is in compliance with the Homeowners Regulations, did they get a permit from the Homeowners group on this???

Please look into this, Thanks,

Mary Cavanaugh  
108 Nob Hill lane  
Ovilla, TX

## **Glennell Miller**

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**From:** Pam Woodall  
**Sent:** Monday, September 19, 2016 11:34 AM  
**To:** Glennell Miller  
**Subject:** FW: Improperly Constructed Wood Fence

FYI

**From:** Michael Myers  
**Sent:** Monday, September 19, 2016 8:48 AM  
**To:** Pam Woodall <PWoodall@cityofovilla.org>  
**Subject:** Fw: Improperly Constructed Wood Fence

Please add to BOA packet for tonights meeting.

Thanks

Mike Myers  
President AGHOA

----- Forwarded Message -----

**From:** John Bush  
**To:** Michael Myers  
**Sent:** Thursday, August 25, 2016 7:35 PM  
**Subject:** Improperly Constructed Wood Fence

Mr. Myers,

I assume that you are aware that the home at 121 Robin Glen has recently installed a fence with the posts and railings facing outward. As I understand, this is in contradiction to the AGHOA restrictions as well as the City of Ovilla ordinances. The City of Ovilla should have made this clear to the homeowner when he applied for a building permit prior to installation. As president of the AGHOA, it is your responsibility to notify the homeowner of this violation and demand that the fence be rebuilt so that the posts and railings are facing into the direction of his property. This is also a safety issue,

I have learned that the homeowner has requested a variance from the City Board of Adjustment. How can an "adjustment" be made to a restriction, the main purpose of which is safety, particularly for those properties which have a pool?

Is there anything you can do to ensure that the City will cooperate with the AGHOA to enforce our deed restrictions, which not only help keep our neighborhood nice but benefit the City as a whole?

If this violation is allowed to pass without consequences, then the AGHOA will be powerless to enforce other deed restrictions and our neighborhood will become an eyesore. Please take action immediately to correct this situation.

If you disagree with this request, give me a call.

John Bush  
972-217-0185



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

Applicant: MOHOMAD SOUEID Case Number: BOA201516.12  
Address: 121 ROBIN GLEN 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 Carol Richtsmeier			
Chair Barbara Betik			
Member John Knight			
Member Sandra Cawley			
Vice Chair Richard Ware			
Alt. Member Ozzie Molina			
Alt. Member Stephanie Heimbuch			

TOTALS:

FOR  
—  
AGAINST  
—  
ABSTAIN  
—

The special exception is hereby:

\_\_\_\_\_ granted      \_\_\_\_\_ denied

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

### Item: 4

#### DISCUSSION & ACTION

Meeting Date: OCTOBER 17, 2016

Attachments:	
None	
Agenda Item / Topic:	
<b>ITEM 4.</b>	DISCUSSION/ACTION – Consideration of any item(s) pulled from the Consent Agenda above for individual consideration and action.
Discussion / Justification:	
N/A	
Recommendation / Staff Comments:	
N/A	
Sample Motion(s):	
N/A	