

Chair, Carol Richtsmeier, PL1
Ozzie Molina, PL2
Barbara Betik, PL3
Sandra Cawley, PL4



Vice Chair, Richard Ware, Jr. PL5
ALT- Paul Haney, PL6
ALT- Stephanie Heimbuch, PL7
Mike Dooly, Code Enforcement

AGENDA

Board of Adjustment Meeting
105 S. Cockrell Hill Road, Ovilla, Texas 75154
May 22, 2017

Pursuant to the provisions of Chapter 551 VTCA Government Code, notice is hereby given of a Regular Meeting of the Board of Adjustment to be held on Monday, May 22, 2017 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

~ City Secretary to administer oath for the Zoning Board of Adjustment ~

Newly Appointed Member Paul Haney – PL6

Consent Items

♦ Minutes of the April 17, 2017 BOA Meeting

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.

Individual Consideration

- ITEM 1.

BOA201617.09 - *Public Hearing and Discussion* of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Brandon Godwin for a residential special exception to construct a fence to the building line on his property located at 100 Pebble Ridge Court.

DISCUSSION/ACTION – Consideration of requested *Special Exception* filed by Brandon Godwin.
- ITEM 2.

BOA201617.10 - *Public Hearing and Discussion* of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Han Lu for a residential special exception to construct a fence to the building line on his property located at 130 Johnson Lane.

DISCUSSION/ACTION – Consideration of requested *Special Exception* filed by Han Lu.
- ITEM 3.

BOA201617.11 - *Public Hearing and Discussion* of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT filed by Han Lu for a residential variance to construct an accessory building behind the rear plane of the main dwelling on his property located at 130 Johnson Lane.

Chair, Carol Richtsmeier, PL1
Ozzie Molina, PL2
Barbara Betik, PL3
Sandra Cawley, PL4



Vice Chair, Richard Ware, Jr. PL5
ALT- Paul Haney, PL6
ALT- Stephanie Heimbuch, PL7
Mike Dooly, Code Enforcement

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Han Lu.

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 **May 22, 2017 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 19th day of May 2017, prior to 6:00 p.m.


Glennell Miller
Deputy City Secretary



DATE OF POSTING: May 19, 2017 **TIME:** 3:30 am/pm
DATE TAKEN DOWN: _____ **TIME:** _____ am/pm

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

CITY OF OVILLA MINUTES
Monday, April 17, 2017
Regular Board of Adjustment Meeting

Chair Carol Richtsmeier called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:02 p.m. with the following BOA members present, thus constituting a quorum:

Carol Richtsmeier	Board Member
Richard Ware	Board Member
Barbara Betik	Board Member
Sandra Cawley	Board Member

Code Enforcement Officer Mike Dooly was present.
At this time Vice Chair Ware called roll of members present, thus declaring a quorum. PL2 Ozzie Molina and PL7 Stephanie Heimbuch were noted absent.

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

COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS

None

CONSENT ITEMS

- Minutes of the March 20, 2017 BOA Meeting

PL3 Betik made the motion that the BOA approve the consent item as presented.

PL4 Cawley seconded the motion.

VOTE: The motion carried 4-0

PL2 Ozzie Molina and PL7 Stephanie Heimbuch were noted absent.

Individual Consideration

&

PUBLIC HEARING

ITEM 1. BOA201617.08 - 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. & Mrs. Poteet for a residential special exception to construct a fence that is on the building on his property located at 204 Willow Creek Ct.

Chair Richtsmeier read aloud the captioned request and opened the Public Hearing at 7:06 p.m. (Testimony that followed was under proper oath; City Representative)

Code Enforcement Officer Mike Dooly shared with the Board a brief explanation that the applicant lives in a cul-de-sac at the end of their road. The applicant is wanting to replace the existing fence with new fencing in the same area.

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

1

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

CITY OF OVILLA MINUTES
Monday, April 17, 2017
Regular Board of Adjustment Meeting

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

Applicant, Mr. Keith Poteet addressed Board members and staff. He explained that the existing fence is dilapidated and the replacement fence will be in the same area as the existing fence.

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

- I. Juanita Porter – 417 Shadowwood Trail – Neighbor; Ms. Porter stated the applicant backs up to her property & explained the fence needed to be updated - that it was falling apart. She said anything would be an improvement.

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

None

(Rebuttal or Final Comments:)

None

The Public Hearing was closed at 7:11 p.m.

INDIVIDUAL CONSIDERATION

DISCUSSION/ACTION – Consideration of requested **Special Exception** filed by Keith & Jackie Poteet.

Chair Richtsmeier asked if there were any responses sent to City Hall regarding this Special Exception request. The Board Secretary confirmed 1 legal notice was posted in The Red Oak Record, 21 letters were sent Certified by U.S. Mail – there were 2 responses in favor.

Vice Chair Ware read aloud the Findings-of-Fact.

After much discussion, the Board reviewed the criterion and completed the *Findings-of-Fact* form resulting in a **positive** outcome.

PL3 Betik moved that the BOA **APPROVE** the Special Exception to Keith & Jackie Poteet at 204 Willow Creek Ct. for a fence to be constructed on his property line as presented in BOA201617.08.

Vice Chair Ware seconded the motion.

Record vote was called to **APPROVE** the request:

Record Vote:

RICHTSMEIER	<u>AYE</u>
BETIK	<u>AYE</u>
CAWLEY	<u>AYE</u>

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

2

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

CITY OF OVILLA MINUTES
Monday, April 17, 2017
Regular Board of Adjustment Meeting

WARE	<u>AYE</u>
MOLINA	<u>ABSENT</u>
HEIMBUCH	<u>N/A</u>

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

PL2 Ozzie Molina and PL7 Stephanie Heimbuch were noted absent.

ITEM 2. **Consideration** of any item(s) pulled from the Consent Agenda above for individual consideration and action.

None

Zoning Board of Adjustments Requests for Future Items
None

Adjournment There being no further business, Chair Richtsmeier adjourned the meeting at 7:16 p.m.

Carol Richtsmeier, Chair

ATTEST:

Glennell Miller, Board Secretary

Approved on May 22, 2017

Attachment(s): *Findings-of-Fact (1)*



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

Applicant: KEITH & JACKIE POTEET
Address: 204 WILLOW CREEK CT.

Case Number: BOA201617.08

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
Chair Carol Richtsmeier	AYE		
Member Barbara Betik	AYE		
Member Sandra Cawley	AYE		
Vice Chair Richard Ware	AYE		
Member Ozzie Molina	ABSENT		
Alt. Member Stephanie Heimbuch	N/A		

TOTALS:

<u>4</u>	FOR
<u>0</u>	AGAINST
<u>0</u>	ABSTAIN

The special exception is hereby:

✓ granted _____ denied

Presiding Officer of BOA **DATE**

Board Secretary **DATE**



Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 1

DISCUSSION & ACTION

Meeting Date: May 22, 2017

Attachments:

1. Permit Application
2. Special Exception Application with attachments
3. Neighbor w/in 200 ft.; Response letter
4. Findings of Fact

Agenda Item / Topic:

ITEM 1. BOA201617.09 – Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3, FENCES IN RESIDENTIAL DISTRICTS, filed by Brandon Godwin for a special exception to construct fence to the building line on his property at 100 Pebble Ridge Court.

Discussion / Justification:

APPLICANT: Brandon Godwin
LOCATION: 100 Pebble Ridge Court
ZONING: RE Residential

Applicant's Proposal: Applicant requests to construct a fence to the property line.

Discussion:

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

D. Support and Rails.

- I. Fences may be constructed to the property line upon approval of a special exception by the Zoning Board of Adjustment. Fencing located on or behind the building line shall not exceed eight feet (8') in height.

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

NOTICES: One public notice listed in the The Red Oak Record; 14 certified letters mailed. There has been one response.

Recommendation / Staff Comments:

N/A

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO BRANDON GODWIN AT 100 PEBBLE RIDGE COURT, TO CONSTRUCT A FENCE ON THE BUILDING LINE, AS PRESENTED IN BOA201617.09."

Residential Building Permit Application

Building Permit Number: 5499 Valuation: \$5,000
Valuation w/land: _____
Project Address: 100 Pebble Ridge Ct.
Lot: 16 Subdivision: Thorn Tree Estates
Project Description: NEW SFR ☐ SFR REMODEL/ADDITION ☐ SPECIFY OTHER: _____
PLUMBING/ELECTRICAL ☐ FLATWORK ☐ SPRINKLER ☐
SWIMMING POOL ☐ ACCESSORY BUILDING ☐ FENCE ☒
Proposed Use: _____
Description of Work: Replace damaged fence with new rod iron.
Area Square Feet: _____ Covered w/Electric
Living: _____ Garage: _____ Porch: _____ Total: _____ Number of stories: _____

Homeowner's name: Brandon Godwin
Address: 100 Pebble Ridge Ct.
Phone Number: _____ Home Number: _____ Mobile Number: 972-877-8201

General Contractor	Contact Person	Phone Number	Contractor License Number
<u>Jay A Fixtures</u>	<u>Brandon Godwin</u>	<u>972-223-2245</u>	
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.

****NOTE** While your project may be approved and permitted by the City, you should check your deed restrictions and HOA requirements before applying for a permit. Obtaining a permit from the City does not ensure your right to commence a project. The City does not reference or enforce HOA restrictions and/or requirements.**

Signature of Applicant: Brandon Godwin Date: 3/27/17

OFFICE USE ONLY:

Approved by:	<u>[Signature]</u>	Date approved:	<u>4-3-17</u>
City Manager:	<u>[Signature]</u>	Date approved:	<u>4-5-2017</u>

Plan Review Fee: _____ Receipt # _____ Total Fees: 96.92
Building Permit Fee: 96.92 Issued Date: _____
Park Impact Fee: _____ Expires: 180 Days
Capital Recovery Fee: _____ Issued By: _____
Fire Meter: _____
Water Meter Cost: _____
Water Impact: _____
Sewer Connection Fee: _____ BV Project # 2017-005073
Sewer Impact: _____

Denred- Bldg Time

CHAPTER 14

ZONING

35.3 (D-1) FENCES IN RESIDENTIAL DISTRICTS

D. Support and Rails.

1. Fences may be constructed to the property line upon approval of a special exception by the Zoning Board of Adjustment. Fencing located on or behind the building line shall not exceed eight feet (8') in height.

DATE: 4/14/17
Case No. BOA 201617.09

REQUEST FOR A SPECIAL EXECPTION

To the
OVILLA 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. 16 Property Address 100 Pebble Ridge Ct.
Block No. 100 Ovilla, TX 75154
Property Zoned Residential

OWNER OF PROPERTY Brandon Godwin

APPLICANT Same

SPECIAL EXCEPTION Put a fence where an existing fence line is now.



Case No. BOA-201617-09

The Applicant/Owner, Brandon Godwin, of Ellis County, requests that the Ovilla Board of Adjustment grant the following SPECIAL EXCEPTION to Article _____, Chapter _____, Section _____ of the Ovilla Zoning Ordinance. Please state in detail what type of SPECIAL EXCEPTION you are seeking, attach additional sheets if necessary.

Removal of existing, damaged, vinyl fence, and installation of 6' rod iron fence. Configuration will change, and a gate addition at drive way.
New fence to follow existing fence line, and not impede toward the road any further.

Has a previous appeal been filed on this property? YES / NO

If YES, when was the previous appeal filed? _____



Case No. BOA201617.09

CONDITIONS NECESSARY FOR GRANTING A SPECIAL EXECPTION

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

Yes, fences are allowed.

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

Yes, the materials have been submitted.

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

The fence will not interfere with any neighboring properties.

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.



Case No. BOA 201617.09

I have completed the following requirements:

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

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

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

Respectfully submitted:

Applicant/Owner Name Brandon Godwin

Mailing Address 100 Pebble Ridge Ct.
Ovilla, TX 75154

Telephone (Hm) 972-877-8201

Telephone (Wk) 972-223-2245

Email brandon@jayhfixtures.com

Brandon Godwin

Applicant's signature

4/14/17

Date

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

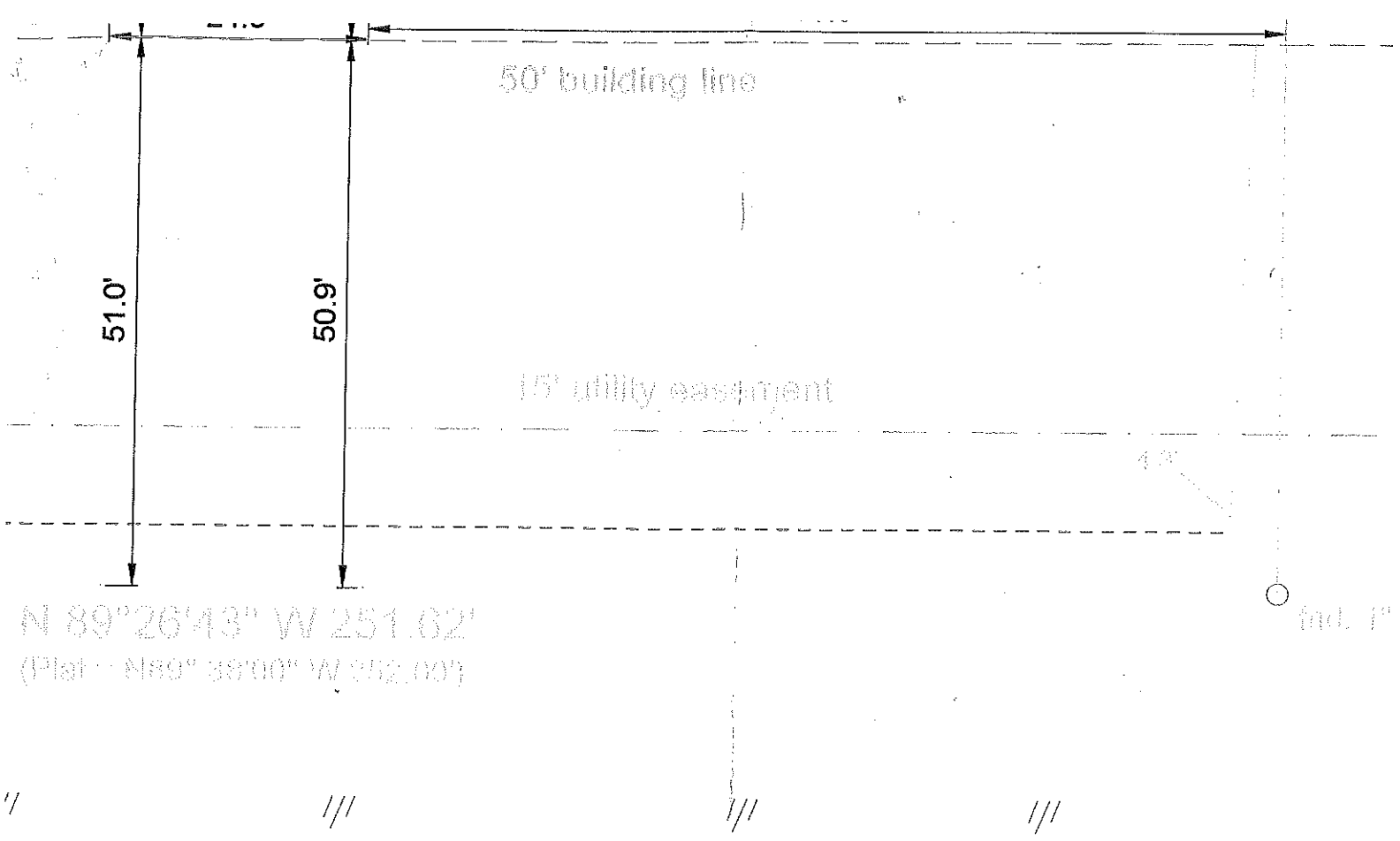
APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

OFFICE USE ONLY

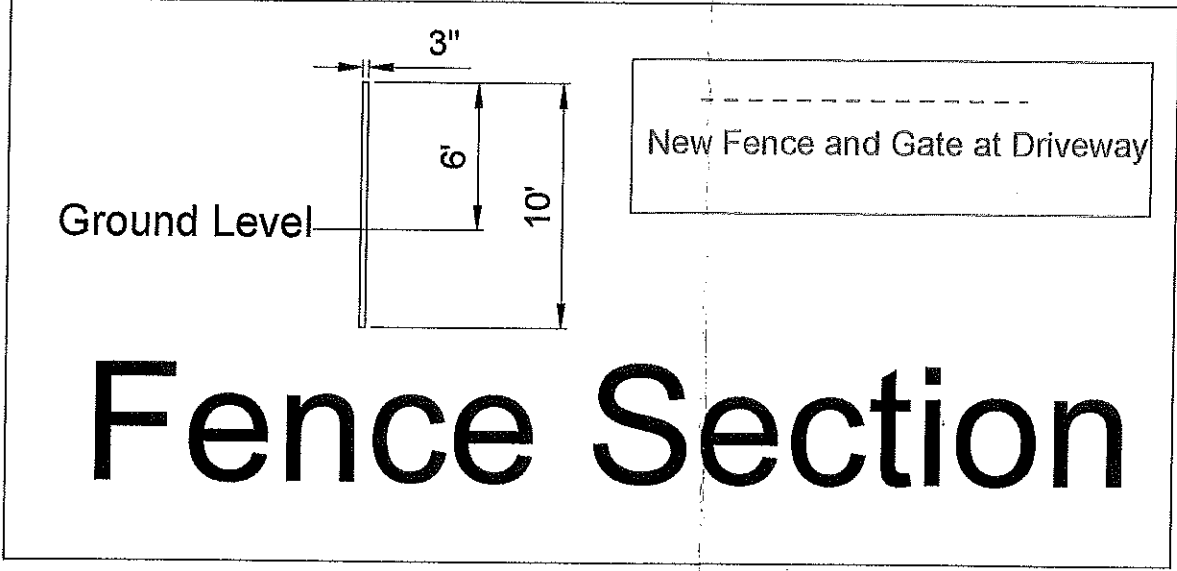
DATE RECEIVED: _____ HEARING DATE: _____

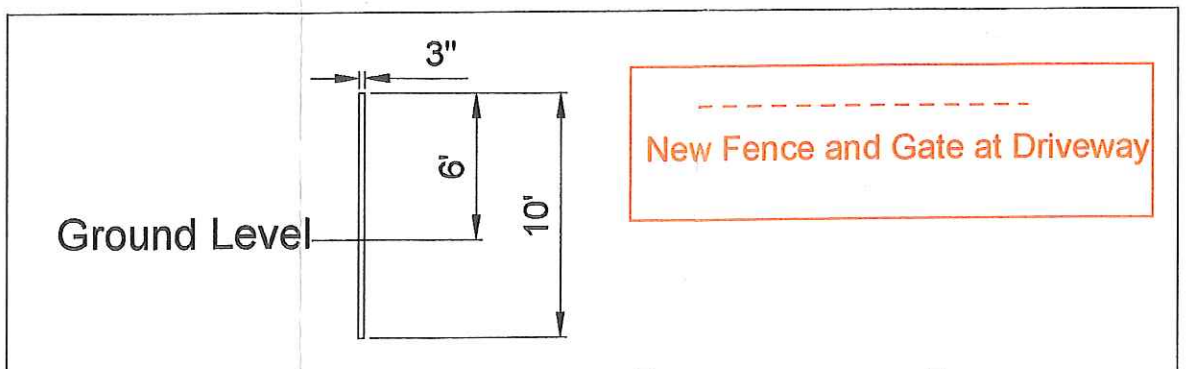
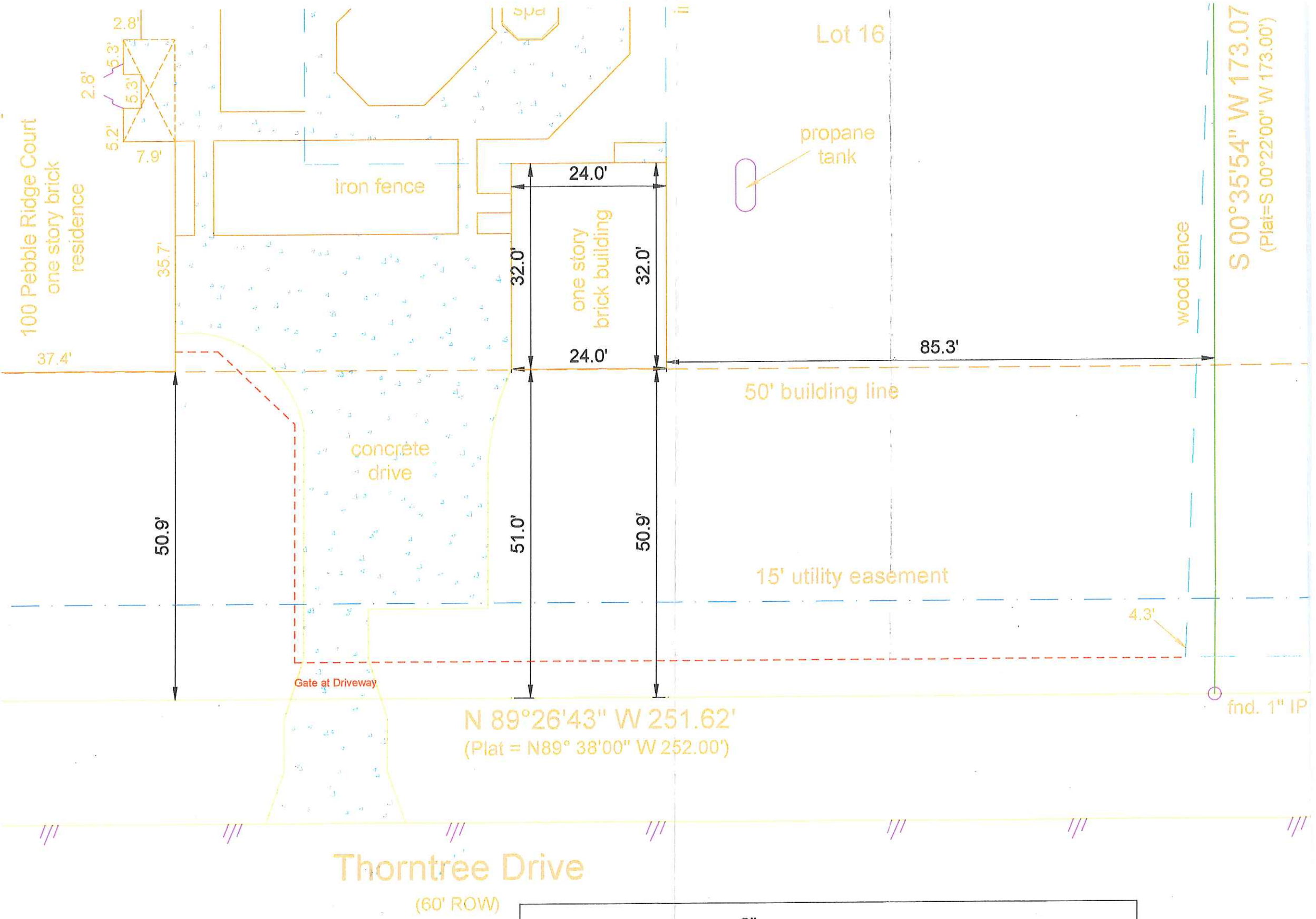
APPROVED: _____ DENIED: _____

BOA CHAIRMAN SIGNATURE: _____



ae Drive
(ROW)





May 12, 2017



HAND DELIVERED

Board of Adjustment
City of Ovilla
105 S. Cockrell Hill Road
Ovilla, TX 75154

Re: BOA-201617.09
100 Pebble Ridge Court

Dear Board,

This letter is in response to notification by the Board of Adjustment (BOA) to us regarding an appeal to the BOA by the property owner of 100 Pebble Ridge Court for construction of a fence that is not allowed by City Ordinance. Please be advised that we will be out of town on 22nd May, the date set for the public hearing, and we therefore submit this response.

The Ovilla Code of Ordinance cited in the notice is Chapter 14, Section 35.3. The appeal by the property owner is stated as follows: "...to construct a fence on his property's building line..." The plat attached to the notice is partial, and focuses on the South side of the property, where presumably the new fence is intended to be constructed. Additionally, the plat shows that the fence on the East side of the property is a "wood fence".

We are requesting that a full survey plat be provided. When the white vinyl fence of 100 Pebble Ridge Court was initially erected, after the posts were put into place, we noticed that the Northeast corner of the fence extended onto our property line. This was discussed with the property owner of 101 Copperfield Court, as this portion of the fence was a co-project between those two property owners, with that line of fence being a replacement of the wood fence that had previously been built on the back side of 101 Copperfield Court. The vinyl fence was completed without adjusting for the property line. This has also been mentioned to the property owner of 100 Pebble Ridge, and he advised he would correct the fence line when he repairs his current fence.

Although the overage is likely small, it does include a utility pole and an AT&T box. Prior to the erection of the vinyl fence, the utility pole and box were not fenced in by the wood fence, and therefore both were accessible. A few years later we began having internet connection issues with AT&T. Ultimately, the cause of the connection issue was traced to the AT&T box located with said utility pole. The AT&T repairman was able to enter through the gate of 100 Pebble Ridge Court to make repairs. To avoid potential access issues in the future, and to ascertain the correct property boundary, we ask that the Northeast corner of the existing fence be reviewed and adjusted as necessary to maintain accurate property boundaries and allow access for utility repair.

With respect to the plat, the fence on the East side of 100 Pebble Ridge is not wood. It is a white vinyl fence. The notice we've received does not specify the material to be used for the new fence. Attached is a copy of our email exchange with the City regarding the condition of the existing fence. The existing fence was damaged during a storm on 2 January 2017. To date, no repairs have been made. In our most recent conversation with the City, we were told that the property owner could not move the fallen fence sections because they were too heavy. This fence line is along Thorntree Drive, which is the main street into our neighborhood. For over four months this fence has been in disrepair. It is not uncommon for vinyl fence sections to fall during storms with heavy winds. The property owner directly behind us (102

Pebble Ridge) also has a vinyl fence that has suffered storm damage at times over the years. Each time the property owner has very quickly repaired the fence. The property at 100 Copperfield Court has a vinyl fence, which also suffered damage during the January 2017 storm. That fence was quickly repaired as well. While repair issues may not be under the purview of the BOA, we would ask that the materials used for the new fencing be of a type and standard that will either withstand wind or are not so heavy as to prevent prompt repair in the event of future damages.

The City Ordinance cited includes reference to a fence not exceeding “*eight feet (8') in height.*” Currently the fencing at 100 Pebble Ridge is less than 8'. Does the property owner intend to maintain the current fence height, or is it his intention to raise any part of the fencing to the maximum allowable of 8'?


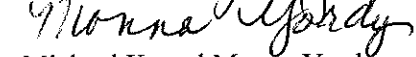
This practice of allowing for a City Ordinance to be circumvented through an appeal process is a concern. City Ordinances are established through a series of meetings and discussions at different levels, e.g., commissions of volunteers, city council review, and/or city attorney review, as examples. Allowing exceptions to an Ordinance on an individual basis seems to put the onus of enforcement on individual neighbors, specifically neighbors within a certain distance of the requesting property owner. That end result is a visual hodgepodge of residential property fencing based on individual preferences and whether or not neighbors are in agreement with the request, or are willing to jeopardize being viewed as not a “good neighbor” by opposing the request. Additionally, each time an appeal is granted, it further erodes the integrity of the City Ordinance. If it is permissible by the City of Ovilla for residential property fences to be constructed on the residential property line, why not propose that change be made to the City Ordinance and eliminate the need for neighbors to be canvassed for their approval?

In summary, we request the following with respect to the above-cited BOA-201617.09:

- That the Northeast property boundary of 100 Pebble Ridge be confirmed.
- If the existing fence exceeds the proper boundary line of the Northeast corner, that the fence be adjusted to be within the property boundary.
- That the fence be of a material that can be repaired by the property owner in a timely manner, as may be necessary in the future.
- That the intended fence height be confirmed.
- That consideration by the BOA include a review of the standard of residential fencing in the City of Ovilla, both in terms of height and position, to ascertain whether the proposed fence is consistent with the intent of the established City Ordinance.

Thank you for your consideration.

Sincerely,

Michael K. and Monna Yordy
103 Copperfield Court
Ovilla, TX 75154
(214) 402-4901

Monna Yordy - monna@globalnet.com
To: "Mike Deane" <Deane.Ron@cityofchicago.org>

Re: Apr 19 at 12:53 PM

Gentlemen,

Sending this to you both because I'm not certain whether these sort of requests go to one or the other or both, or even if both of you are available this week. The picture below was taken a bit earlier today. The house sits at the corner of Thorntree and Pebble Ridge. The fence was damaged in the storm that came through on 2 Jan 2017.

Near the end of Feb or early Mar, I first asked about the fence, thinking that two months was a reasonable time for repairs to be made. At that time I was told that the owner had stated he was waiting on action by either an insurance adjuster or a fence contractor. In the two or three times since then when I've followed up, the answer has been the delay is because of the fence contractor.

It's now been 3.5 months. While I can be sympathetic about challenges with contractors, I believe waiting for that resolution and correcting the unsightly fence are two separate issues. If there continue to be contractor challenges that are preventing repair to the fence, then the fence can be repaired in some manner by the homeowner or removed entirely during the interim. While I do not see that a specific timeframe is mentioned in the fence ordinance about repairs to damaged fences, surely there is a reasonableness test that can be applied.

Please, therefore, can you advise regarding at least one of the following:

- Has the homeowner been given notice to bring the fence into code compliance? If so, what is the deadline so that I do not continue to ask and, in doing so, continue taking up your time by asking.
- If the homeowner has not been given notice to bring the fence into compliance, for how long will the fence be allowed to be non-compliant?
- If the belief is that the fence, in its current state, is in compliance with respect to repair and maintenance, how so?

Thank you and regards,
Monna Yordy



Received: 2015-04-16 10:00:00
From: Mike Dooly

2015-04-16 10:00:00

Hello thank you for your email. The property in question has been in contact with my office concerning his fence repair for quite some time. His fence contractor had him scheduled for repair and now the owner has applied for a permit to replace the damaged fence with new fencing. Since City of Ovilla Code of Ordinance requires a special exception to place or replace fence in front of the building line or up to the property line, the property owner has filed a request and should be on the next Board of Adjustment agenda. Once the board meets we will urge the owner to complete the project as soon as possible. Thank you for helping to keep Ovilla a safe place.

Mike Dooly
Neighborhood Services
The Great City of Ovilla

Received: 2015-04-16 10:00:00
From: Mike Dooly

2015-04-16 10:00:00

Hi Mike,

Thank you for your quick response. I've read and re-read, and given thought to the situation, and I'm not comfortable with the proposed solution, e.g., leave a status quo until after the next Board of Adjustment meeting

Per the City website, the BoA met 17th April. I am only assuming that the next meeting will not be before mid-May. If that is true, it will have been 4.5 months that time for the fence to be down. In the response given, the plan for after that meeting is that the City *will urge the owner to complete the project as soon as possible*. I am a bit concerned about what is "possible" given the time (3.5 months) that has been allowed to pass thus far to be non-compliant. In the Ordinance it is slated that in the case where a fence that is not compliant to Sec 3.05.010 (c)(e), the owner may apply for a one-time 90 day extension.

Does the fence owner's application to replace the fencing preclude him from picking up the debris left from the 2nd January storm?

With respect to the comment about *helping to keep Ovilla a safe place*, appearance goes a long way toward dissuading crime. There are numerous articles available that discuss the correlation between the upkeep of a neighborhood and its rate of crime. Currently, driving down Thorntree Street, passing Pebble f the appearance is more similar to the area around Polk Street, north of I-20, in Dallas than it is to Ovilla. To allow this particular situation to continue until 1/2 past the weather event is unfathomable to me. It's a fence, with missing sections and the sections laying where they fell. These can easily be picked up and arranged so that it is less unsightly.

One last note: If the back line of fencing is replaced, will the City to require a survey to be done to identify property and easement lines?

Thank you and regards,
Morna



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

Applicant: **BRANDON GODWIN** Case Number: **BOA201617.09**
Address: **100 PEBBLE RIDGE CT.**

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
Chair Carol Richtsmeier			
Member Barbara Betik			
Member Ozzie Molina			
Member Sandra Cawley			
Vice Chair Richard Ware			
Alt. Member Paul Haney			
Alt. Member Stephanie Heimbuch			

TOTALS:

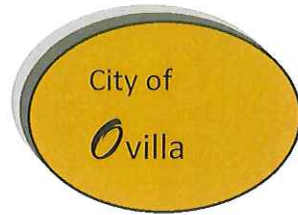
— FOR
— AGAINST
— ABSTAIN

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: 2

DISCUSSION & ACTION

Meeting Date: May 22, 2017

Attachments:

1. Permit Application
2. Special Exception Application with attachments
3. Findings of Fact

Agenda Item / Topic:

ITEM 2. BOA201617.10 – Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3, FENCES IN RESIDENTIAL DISTRICTS, filed by Han Lu for a special exception to construct fence to the building line on his property at 130 Johnson Lane.

Discussion / Justification:

APPLICANT: Han Lu
LOCATION: 130 Johnson Lane
ZONING: RC Residential

Applicant's Proposal: Applicant requests to construct a fence to the property line.

Discussion:

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

D. Support and Rails.

1. Fences may be constructed to the property line upon approval of a special exception by the Zoning Board of Adjustment. Fencing located on or behind the building line shall not exceed eight feet (8') in height.

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

NOTICES: One public notice listed in The Red Oak Record; 13 certified letters mailed. There have been no responses.

Recommendation / Staff Comments:

N/A

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO HAN LU AT 130 JOHNSON LANE, TO CONSTRUCT A FENCE ON THE BUILDING LINE, AS PRESENTED IN BOA201617.10."

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: 5513 Valuation: 14000
Valuation w/land:
Project Address: 130 Johnson
Lot: Subdivision:
Project Description: NEW SFR SFR REMODEL/ADDITION SPECIFY OTHER:
PLUMBING/ELECTRICAL FLATWORK SPRINKLER
SWIMMING POOL ACCESSORY BUILDING FENCE
Proposed Use: Chain Link / Wrought Iron
Description of Work:
Area Square Feet: Covered
Living: Garage: Porch: Total: Number of stories:

Homeowner's name: Han Lu
Address: 130 Johnson Ln.
Phone Number: 469-245-7933 Home Number: Mobile Number:

General Contractor	Contact Person	Phone Number	Contractor License Number
	Tamie	972-533-7768	
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.

****NOTE **** While your project may be approved and permitted by the City, you should check your deed restrictions and HOA requirements before applying for a permit. Obtaining a permit from the City does not ensure your right to commence a project. The City does not reference or enforce HOA restrictions and/or requirements.

Signature of Applicant: Date: 4/10/17

OFFICE USE ONLY:

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

Plan Review Fee: Receipt # Total Fees:
Building Permit Fee: Issued Date:
Park Impact Fee: Expires: 180 Days
Capital Recovery Fee: Issued By:
Fire Meter:
Water Meter Cost:
Water Impact:
Sewer Connection Fee: BV Project #
Sewer Impact:

No# 201617.10
FENCE ON BUILDING LINE
M/D

CHAPTER 14

ZONING

35.3 (D-1) FENCES IN RESIDENTIAL DISTRICTS

D. Support and Rails.

1. Fences may be constructed to the property line upon approval of a special exception by the Zoning Board of Adjustment. Fencing located on or behind the building line shall not exceed eight feet (8') in height.

INSTRUCTIONS FOR COMPLETING THE REQUEST FOR A
SPECIAL EXCEPTION



TO THE OVILLA BOARD OF ADJUSTMENT

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.

BOA201617.10

DATE: _____
Case No. BOA 201617. LO

REQUEST FOR A SPECIAL EXECPTION

**To the
OVILLA 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. 79N 5 B. Hingsley Property Address 130 Johnson Lane
Block No. 2.5 ac Ovilla Tx
Property Zoned AC

OWNER OF PROPERTY _____

APPLICANT x Han Lu

SPECIAL EXCEPTION _____



Case No. BOA 201617.10

The Applicant/Owner, HAN LU, of ELLIS 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.

<u>To Construct A Fence at the property line</u>
<u>Property located on a corner lot</u>
<u>fences can be built to property line with</u>
<u>special exception from Board of Adjustment,</u>

Has a previous appeal been filed on this property? YES / NO

If YES, when was the previous appeal filed? _____



Case No. BOA 201617.10

CONDITIONS NECESSARY FOR GRANTING A SPECIAL EXECPTION

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 *yes*

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

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

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.



Case No. BOA201617.10

I have completed the following requirements:

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

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

_____ to represent me in this **SPECIAL EXCEPTION** request before the Board of Adjustment.

(Telephone)

Respectfully submitted:

Applicant/Owner Name Han Lu
Mailing Address 130 Johnson LN
Ovilla TX 75154
Telephone (Hm) 917-703-9993
Telephone (Wk) _____
Email _____

 4/19/17
Applicant's signature Date

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

OFFICE USE ONLY	
DATE RECEIVED: _____	HEARING DATE: _____
APPROVED: _____	DENIED: _____
BOA CHAIRMAN SIGNATURE: _____	

BOOK NO. 2-171-10

PROPERTY DESCRIPTION:

BEING A 2.55 ACRE TRACT OF LAND SITUATED IN THE N. S. BILLINGSLEY SURVEY, ABSTRACT NO. 79, ELLIS COUNTY, TEXAS, BEING ALL THAT CERTAIN TRACT OF LAND DESCRIBED IN DEEDS AND PUBLIC RECORDS, ELLIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

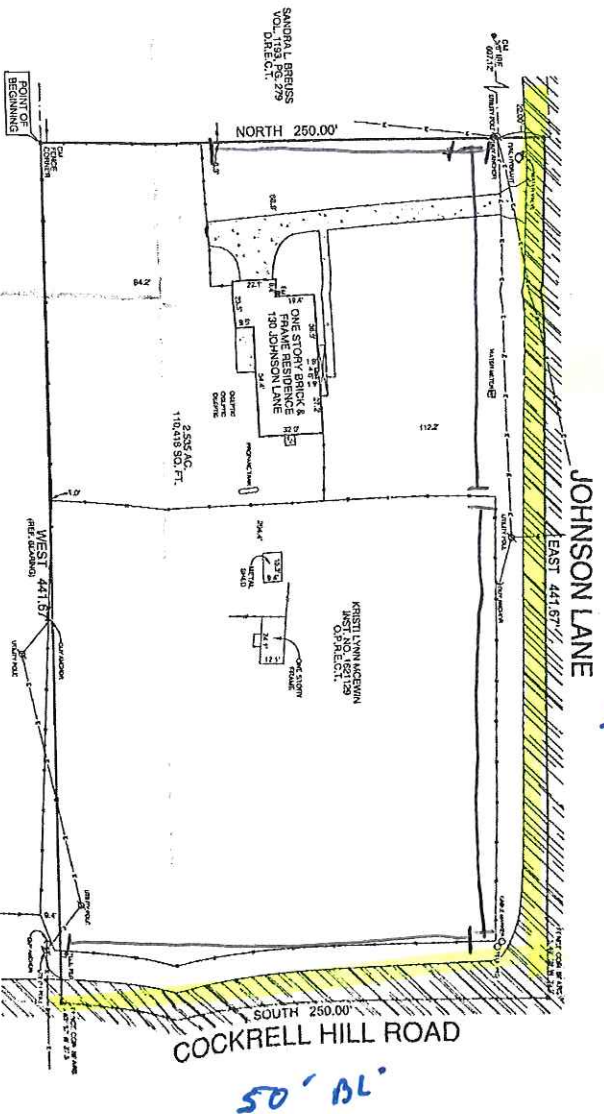
BEGINNING AT A FENCE CORNER AT THE COMMON SOUTHWEST CORNER OF SAID MCEWEN TRACT AND THENCE NORTH ALONG THE COMMON LINE OF SAID MCEWEN TRACT AND BREISS TRACTS TO THE NORTHWEST CORNER OF SAID MCEWEN TRACT, BEING IN JOHNSON LANE;

THENCE NORTH, A DISTANCE OF 250.00 FEET ALONG THE COMMON LINE OF SAID MCEWEN TRACT AND BREISS TRACTS TO THE NORTHWEST CORNER OF SAID MCEWEN TRACT, BEING IN JOHNSON LANE;

THENCE EAST, A DISTANCE OF 441.57 FEET ALONG SAID JOHNSON LANE TO A POINT FROM WHICH A FENCE CORNER BEARS SOUTH 49° 08' WEST - 38.9 FEET, SAID POINT BEING THE NORTHEAST CORNER OF SAID MCEWEN TRACT, BEING THE INTERSECTION OF SAID JOHNSON LANE AND COCKRELL HILL ROAD;

THENCE SOUTH, A DISTANCE OF 250.00 FEET ALONG SAID COCKRELL HILL ROAD TO A POINT FROM WHICH A FENCE CORNER BEARS SOUTH 89° 57' WEST - 27.5 FEET, SAID POINT BEING THE SOUTHEAST CORNER OF SAID MCEWEN TRACT;

THENCE WEST, A DISTANCE OF 441.57 FEET ALONG THE SOUTH LINE OF SAID MCEWEN TRACT TO THE POINT OF BEGINNING AND CONTAINING 110.418 SQUARE FEET OR 2.55 ACRES OF LAND.



THIS PROPERTY MAY BE SUBJECT TO THE FOLLOWING:

1. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

2. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

3. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

4. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

5. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

6. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

7. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

8. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

9. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

10. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

11. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

12. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

13. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

14. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

15. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

16. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

17. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

18. A DEED OF TRUST DATED 10/1/81, RECORD NO. 100,000, ELLIS COUNTY, TEXAS, WHICH MAY BE SUBJECT TO THE FOLLOWING:

TITLE SURVEY
130 JOHNSON LANE
PREMIER JOB # 1701181
DATE: 09/10/17 REV: 03/10/17

GFA: 17,286.78 BL
BOBROWER:
HALL LI AND QING ZHAO



DATE	BY	REVISION
09/10/17	BOBROWER	1
09/10/17	BOBROWER	2
09/10/17	BOBROWER	3
09/10/17	BOBROWER	4
09/10/17	BOBROWER	5
09/10/17	BOBROWER	6
09/10/17	BOBROWER	7
09/10/17	BOBROWER	8
09/10/17	BOBROWER	9
09/10/17	BOBROWER	10

Capital Title
A Shaddock Company

Pemier
Surveying & Mapping
1000 N. Main Street
Suite 100
Dallas, Texas 75202
Phone: 214.760.1000
Fax: 214.760.1001
Email: info@pemier.com

Raleigh Fence Company

Estimate/Contract

515 Canary Lane
Red Oak, TX 75154

www.redoakfences.com

(972) 533-7768
ajsurratt@sbcglobal.net

NAME <u>James</u>		H#		DATE/TIME	
STREET <u>1222 Johnson Ln</u>		W#		REPRESENTATIVE	
CITY, STATE, ZIP <u>Dallas</u>		C# <u>469-445-7933</u>		REP'S CELL	
MAPSCO		CROSS STREET		FAX	
SOURCE		COUNTY		EMAIL	
				CREW LEAD	
Wood Fence Total Height & Types		Measure		Price	
FT Board/Board Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
FT Side/Side Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
FT Board/Board Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
FT Side/Side Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
___ FT Board/Board Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
___ Ft Side/Side Fence GRD <input type="checkbox"/> LVL <input type="checkbox"/> Step <input type="checkbox"/> x					
Metal Post _____ Wood Post _____					
n stained _____ Stained _____					
rails: <input type="checkbox"/> PT <input type="checkbox"/> Cedar					
ckets: 1 x 6 <input type="checkbox"/> 1 x 4 <input type="checkbox"/>					
x 4 Top Side Trim					
p Cap 2 x 8 <input type="checkbox"/> 2 x 6 <input type="checkbox"/>					
d Fence Removal		455		683.00	
x 6 Pressure Treated Kickboard					
dividual Corbels					
ixed Posts					
oncrete Coring					
her 6 FT <u>Wrought Iron</u>		174		4100.00	
ain Link					
<input type="checkbox"/> 5' <input type="checkbox"/> 6' <input type="checkbox"/> 8'		455		5915.00	
ilvanized <input type="checkbox"/> Vinyl Color Coated <input type="checkbox"/>					
namental Fence Total Height & Types		Measure		Price	
<input type="checkbox"/> 6' <input type="checkbox"/> 8' <input type="checkbox"/> Panel Style <u>5 FT</u>		174		3654.00	
iveway Gate Height & Types		Measure		Price	
<input type="checkbox"/> 8' <input type="checkbox"/> Electric Gate - Metal Frame w/Wood Pickets & Fence					
in Swing Gate 4' <input type="checkbox"/> 6' <input type="checkbox"/> 8' <input type="checkbox"/> Motor <input type="checkbox"/> Solar <input type="checkbox"/>				3500.00	
ck Types		Measure		Price	
dar Wood <input type="checkbox"/> Treated <input type="checkbox"/> Composite <input type="checkbox"/>					
oor/Pergola Types		Measure		Price	
dar Wood <input type="checkbox"/> P-T Wood <input type="checkbox"/>					
tio Cover Types		Measure		Price	
dar Wood <input type="checkbox"/> Roof Shingle <input type="checkbox"/>					
Sub Total					
Tax					
Payment due upon completion of construction		CASH TOTAL		5177.00	
imate valid for 30 days (3%) Credit Card Totals		TOTAL PRICE		13732.00	
ndard Form Agreement, Terms and Conditions."		DIG-TEST CONFIRMATION#			

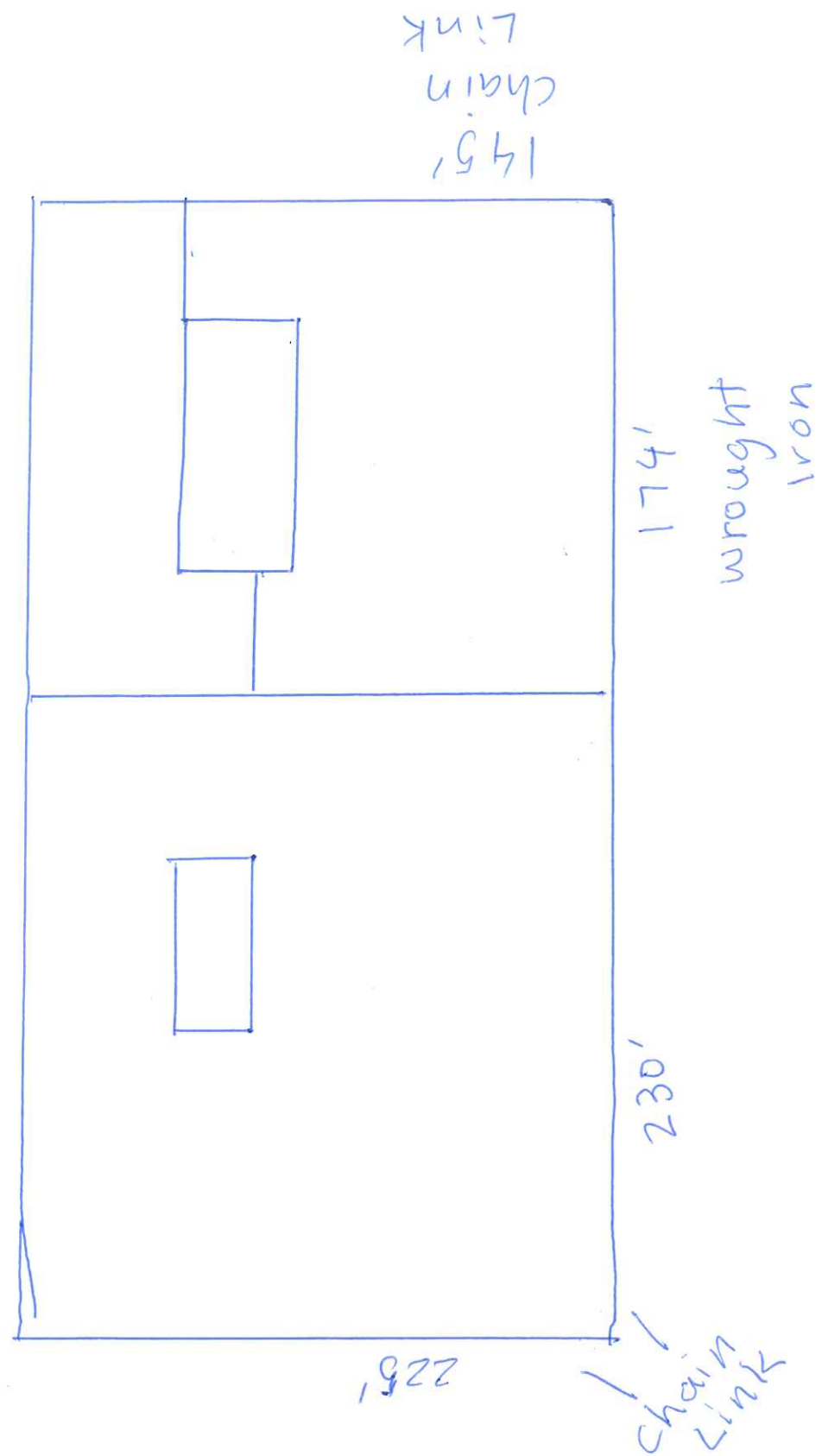
****WARRANTY COVERAGE**** This warranty ONLY covers workmanship errors for the time frame noted and agreed on in this contract. Raleigh Fence is not responsible for damage due to acts of nature, or otherwise not related to the construction process during the time of installation. Western red cedar wood products are considered the best value, most durable, and least affected by weathering, insects and decay, however any wood that is exposed to the weather elements will shrink, twist, warp, bow, crack and lose knots over time. These are acts of God therefore NO WARRANTY is offered or implied. Other exclusions are vandalism, vehicular damage, storm damage, wind damage, and in cases of prolonged dry weather, loose posts caused by poor sod maintenance, ground cracking, and erosion (WATER YOUR POSTS!!), flooding, fire, any gate damage caused by lawn equipment and lawn service companies, gates slamming shut that have been left open, swinging on the gate and normal wear and tear. Customer is responsible for routine maintenance. Ask your sales rep for our suggested maintenance.

Payable to Raleigh Fence Company

Signature: James Purchaser Signature:

Sales rep: Tamie

BOA 201617-10



BOA 2016/17.10



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

Applicant: Han Lu
Address: 130 Johnson Lane

Case Number: BOA201617.10

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
Chair Carol Richtsmeier			
Member Barbara Betik			
Member Ozzie Molina			
Member Sandra Cawley			
Vice Chair Richard Ware			
Alt. Member Paul Haney			
Alt. Member Stephanie Heimbuch			

TOTALS:

FOR
AGAINST
ABSTAIN

The special exception is hereby:

_____ granted _____ denied

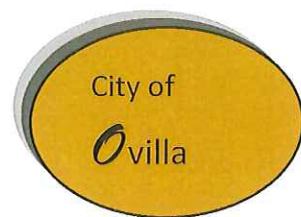
Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE



Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 3

DISCUSSION & ACTION

Meeting Date: May 22, 2017

Attachments:

1. Permit Application
2. Variance Application with attachments
3. Findings of Fact

Agenda Item / Topic:

ITEM 3. BOA201617.11 – Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3, **PLACEMENT**, filed by Han Lu for a variance to construct an accessory building that is not behind the rear plane of the main dwelling on his property at 130 Johnson Lane.

Discussion / Justification:

APPLICANT: Han Lu
LOCATION: 130 Johnson Lane
ZONING: RC Residential

Applicant's Proposal: Applicant requests to construct an accessory building that is not behind the rear plane of the main dwelling.

Discussion:

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

- A. Front Setback. A residential accessory building must be located completely behind the rear plane of the main dwelling.

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

NOTICES: One public notice listed in the The Red Oak Record; 13 certified letters mailed. There have been no responses.

Front s

N/A

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO HAN LU AT 130 JOHNSON LANE, TO CONSTRUCT AN ACCESSORY BUILDING THAT IS NOT BEHIND THE REAR PLANE OF THE MAIN DWELLING, AS PRESENTED IN BOA201617.11."

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: 5512 Valuation: 4000
Valuation w/land:
Project Address: 130 Johnson Ln.
Lot: Subdivision:
Project Description: NEW SFR SFR REMODEL/ADDITION SPECIFY OTHER:
PLUMBING/ELECTRICAL FLATWORK SPRINKLER
SWIMMING POOL ACCESSORY BUILDING FENCE
Proposed Use: Pigeon Loft 12x24
Description of Work:
Area Square Feet: Living: Garage: Covered Porch: Total: 2.5 acm Number of stories:

Homeowner's name: Han Lu
Address: 130 Johnson Ln.
Phone Number: 469-245-7933 Home Number: Mobile Number:

General Contractor	Contact Person	Phone Number	Contractor License Number
Carmelo	Carmelo	214-517-5244	
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.

****NOTE **** While your project may be approved and permitted by the City, you should check your deed restrictions and HOA requirements before applying for a permit. Obtaining a permit from the City does not ensure your right to commence a project. The City does not reference or enforce HOA restrictions and/or requirements.

Signature of Applicant: J2 Date: 4/10/17

OFFICE USE ONLY:

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

Plan Review Fee: Receipt # Total Fees:
Building Permit Fee: Issued Date:
Park Impact Fee: Expires: 180 Days
Capital Recovery Fee: Denied - 30.3 No
Fire Meter: Accessory Building
Water Meter Cost: Allowed in front of
Water Impact: main dwelling. 14-30.3
Sewer Connection Fee: BV Project #
Sewer Impact: BOA 201617.11

CHAPTER 14

ZONING

Section 30 - Accessory and Residential Accessory Buildings

30.3 PLACEMENT

A. Front Setback. A residential accessory building must be located completely behind the rear plane of the main dwelling.



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 2016/7.11



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.

Recently purchased land, property is too narrow would put pigeons close to neighbors

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.

want to raise pigeons

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

Property is narrow not deep

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.

Pigeons would be too close to back neighbors

BOA 201617.11



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.

Area has livestock and birds already.

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.

pets 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.

BOA201617.11



Case No. BOA 201617.11

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. 79 N S. Billingsley Property Address 130 Johnson LN
Block No. 2.5 acre Ovilla TX 75154
Zoning RC

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

A variance to construct pigeon loft-accessory
Building-in front of the main Dwelling

Has a previously appeal been filed on this property?

YES / NO

If YES, when was the previous appeal filed? _____



• Case No. BOA 201617.11

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 x Han Lu

Mailing Address x 130 Johnson LN
Ovilla TX 75154

Telephone (Hm) x 917-703-9993

Telephone (Wk) _____

Email _____

Applicant's signature

4/19/17
Date

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

BOOK 206-17-1-1

PROPERTY DESCRIPTION:

BEING A 3.58 ACRE TRACT OF LAND SITUATED IN THE N. S. HILINSLEY SURVEY ABSTRACT NO. 79, ELLIS COUNTY, TEXAS, BEING ALL THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO KRISTY LYNN MCEWEN, AS RECORDED IN INSTRUMENT NO. 42179, OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

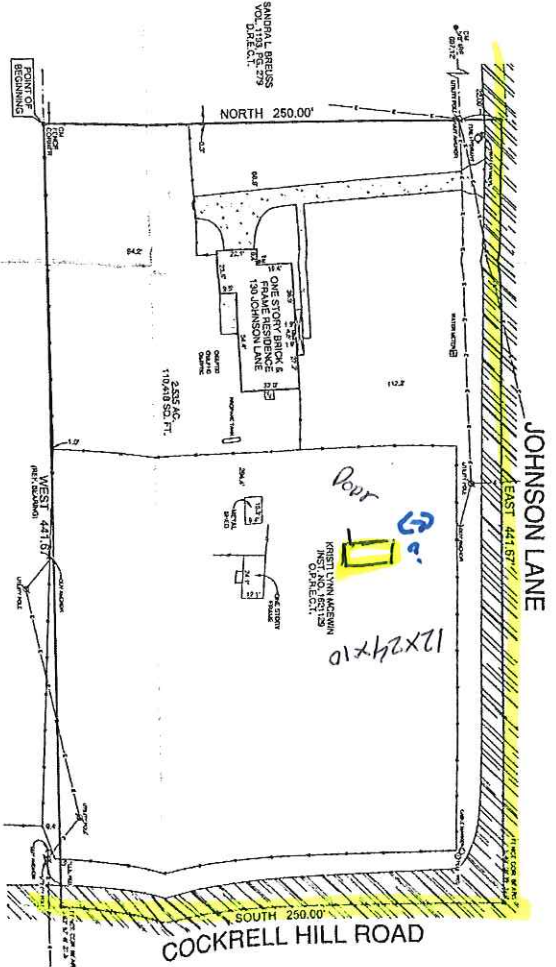
BEGINNING AT A FENCE CORNER AT THE COMMON SOUTHWEST CORNER OF SAID MCEWEN TRACT, BEING A DISTANCE OF 250.00 FEET ALONG THE COMMON LINE OF SAID MCEWEN AND BREUSS TRACTS TO THE NORTHWEST CORNER OF SAID MCEWEN TRACT, BEING IN JOHNSON LANE;

THENCE NORTH, A DISTANCE OF 250.00 FEET ALONG THE COMMON LINE OF SAID MCEWEN AND BREUSS TRACTS TO THE NORTHWEST CORNER OF SAID MCEWEN TRACT, BEING IN JOHNSON LANE;

THENCE EAST, A DISTANCE OF 441.67 FEET ALONG SAID JOHNSON LANE TO A POINT FROM WHICH A FENCE CORNER BEARS SOUTH 49° 08' WEST, 38.9 FEET, SAID POINT BEING THE NORTHEAST CORNER OF SAID MCEWEN TRACT, BEING THE INTERSECTION OF SAID JOHNSON LANE AND COCKRELL HILL ROAD;

THENCE SOUTH, A DISTANCE OF 250.00 FEET ALONG SAID COCKRELL HILL ROAD TO A POINT FROM WHICH A FENCE CORNER BEARS SOUTH 88° WEST, 27.2 FEET, SAID POINT BEING THE SOUTHWEST CORNER OF SAID MCEWEN TRACT;

THENCE WEST, A DISTANCE OF 441.67 FEET ALONG THE SOUTHWEST CORNER OF SAID MCEWEN TRACT, BEING IN JOHNSON LANE, CONTAINING 110.418 ACRES OF LAND.



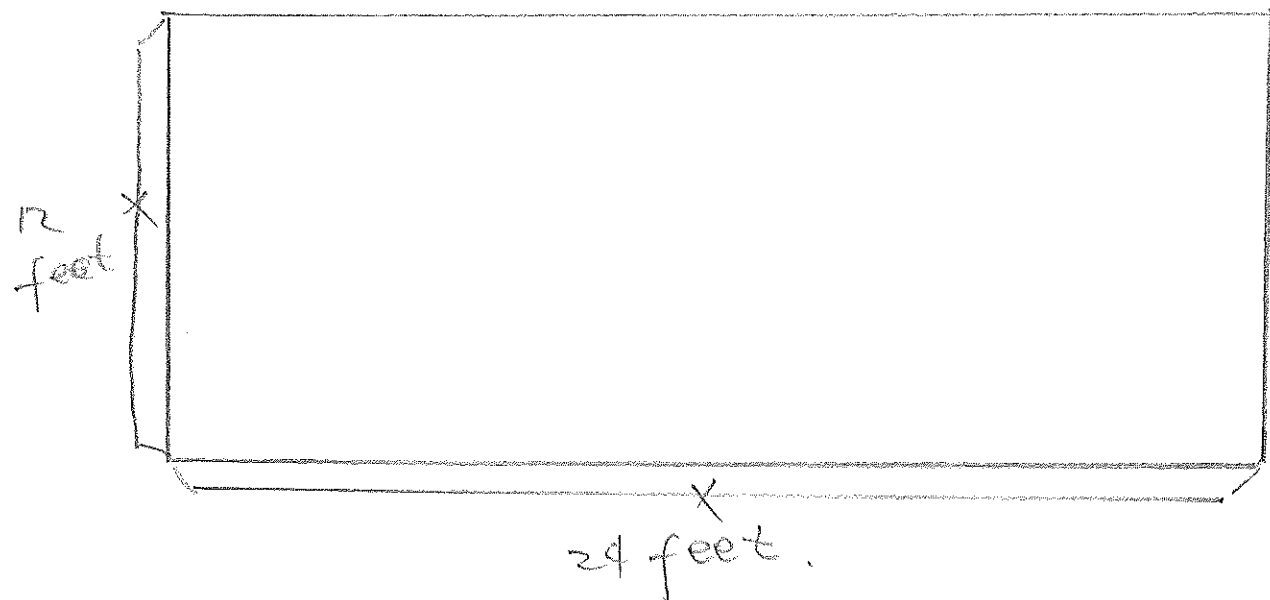
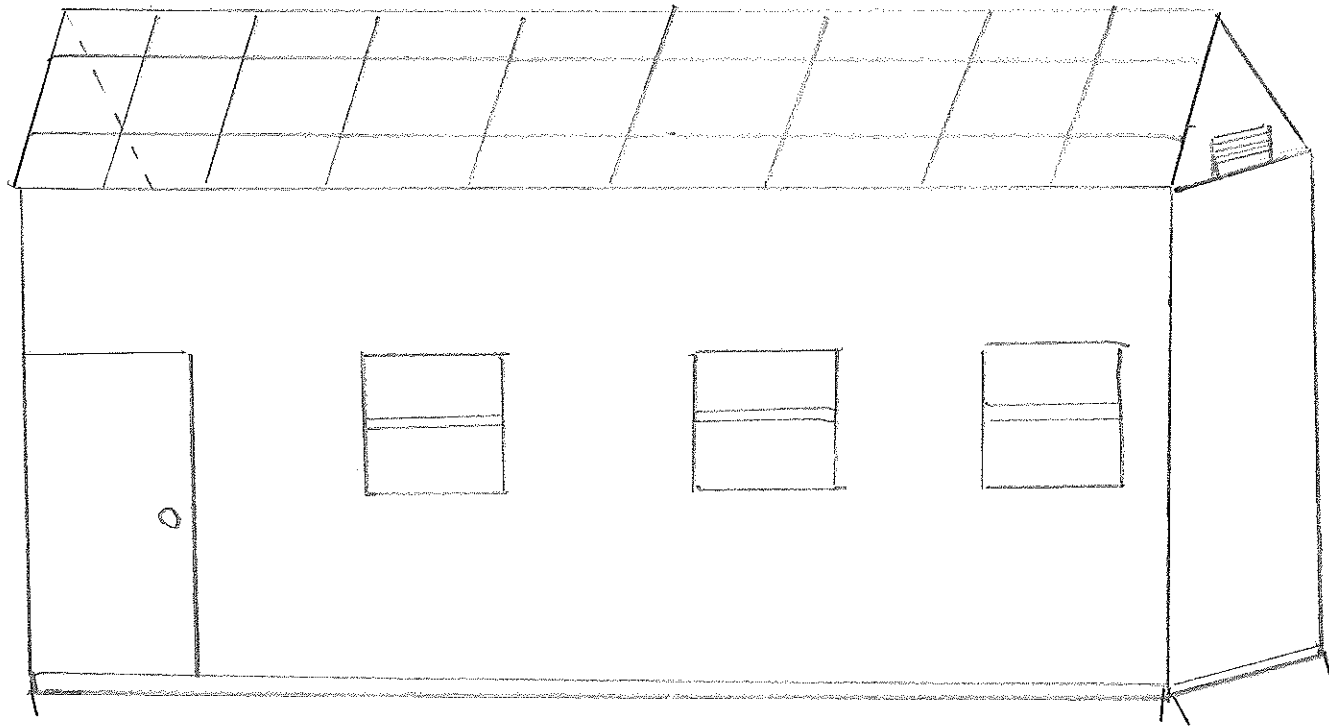
THE SURVEYOR HAS BEEN ASSISTED BY THE FOLLOWING:

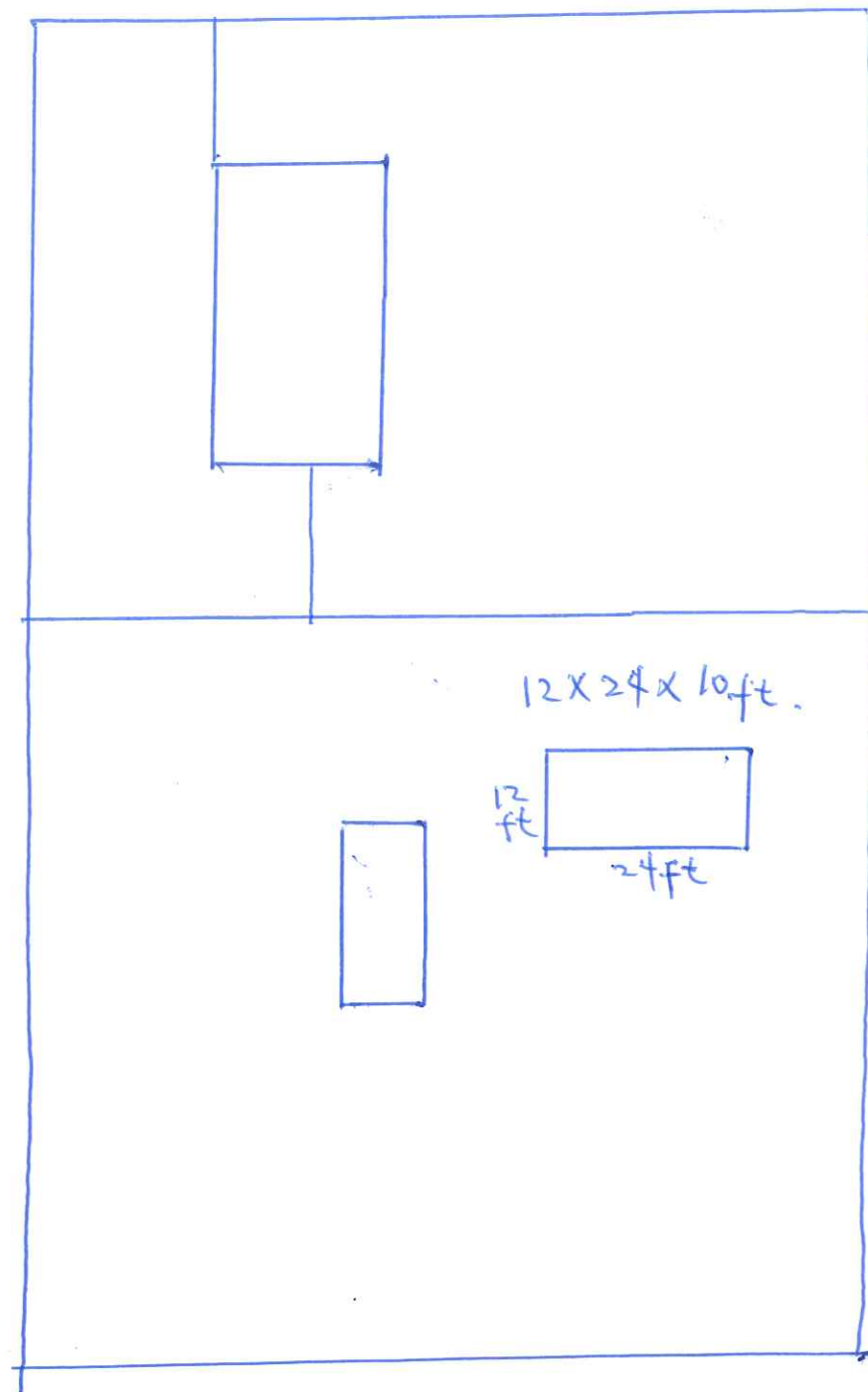
THE SURVEYOR HAS BEEN ASSISTED BY THE FOLLOWING:

THE SURVEYOR HAS BEEN ASSISTED BY THE FOLLOWING:

TITLE SURVEY	
BORROWER: HALL LAND OILING ZONE	
TECH: MRP	
DATE: 02/21/17	REV: 03/20/17
FIELD: CC	FIELD DATE: 02/21/17
Capital Title A Shaddock Company	
Premier Surveying & Mapping 1700 W. 17th Street Suite 100 Irving, Texas 76038 Phone: 972-441-1234 Fax: 972-441-1235	

12 ft X 24 ft X 10 ft





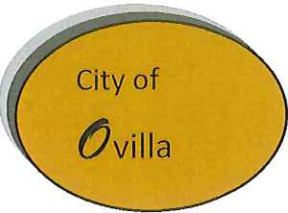
BOA 2016/17.11

Carmelo Villacido
April 7 - 2017

- Storage Room : 12 x 27 all
- Materials included for the
- outside and Roof, 2 windows
- only Not the inside included
- for the amount of \$9000
- down Payment 2500
- must be done 6 days.
- Starting Monday the 10th
- 10 day to get it done after
- 10 day if the job is not
- completed \$200 for every day
- the job is not done.

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BOA 201617.11



AGENDA ITEM REPORT
Item: 4

DISCUSSION & ACTION

Meeting Date: May 22, 2017

Attachments:	
None	
Agenda Item / Topic:	
ITEM 4.	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	