

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

# City of Ovilla

## AGENDA

Board of Adjustment Meeting  
105 S. Cockrell Hill Road, Ovilla, Texas 75154  
August 21, 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, August 21, 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 Oaths of Office for the Zoning Board of Adjustment ~

- Carol Richtsmeier, PL1 • Barbara Betik, PL3 • Richard Ware, PL5 • Stephanie Heimbuch, PL7  
Newly Appointed Member Paul Haney, PL6

### Consent Items

♦ Minutes of the May 22, 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.** **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Board of Adjustment.

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

**ITEM 3.** **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.*

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

## City of Ovilla

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

### Adjournment

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **August 21, 2017 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 16th day of August 2017, prior to 6:00 p.m.

*Glennell Miller*  
Glennell Miller  
Deputy City Secretary

**DATE OF POSTING:**

*AUG. 16, 2017*

**TIME:** *3:00*

**am/pm**

**DATE TAKEN DOWN:**

**TIME:** \_\_\_\_\_

**am/pm**



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

**CITY OF OVILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

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

Carol Richtsmeier	Board Member
Richard Ware	Board Member
Sandra Cawley	Board Member
Stephanie Heimbuch	Alt. 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 PL3 Barbara Betik 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 April 17, 2017 BOA Meeting

PL4 Cawley made the motion that the BOA approve the consent item as presented.

PL7 Heimbuch seconded the motion.

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

PL2 Ozzie Molina and PL3 Barbara Betik were noted absent.

**Individual Consideration**  
**&**  
**PUBLIC HEARING**

**ITEM I.** **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 Mr. Brandon Godwin for a residential special exception to construct a fence to the building on his property located at 100 Pebble Creek Ct.

***Chair Richtsmeier read aloud the captioned request and opened the Public Hearing at 7:10 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 is wanting to replace the existing fence that was blown down in storms a few months back. He informed the board that the fence would be in the same area, since poles were still in the ground.

Chair Carol Richtsmeier, BOA PL1

Barbara Betik, BOA PL3

Vice Chair Richard Ware, BOA PL5

Stephanie Heimbuch, BOA PL7 (Alternate)

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Ozzie Molina, BOA PL2

Sandra Cawley, BOA PL4

BOA PL6 (Alternate)

Mike Dooly, Code Enforcement

**CITY OF O'VILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

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

Applicant, Mr. Brandon Godwin addressed board members and staff. He explained that the existing fence did fall with the storms but let the board know that he has not been able to locate a contractor that repairs vinyl fencing, therefore, he will be replacing the downed sections of fence with iron fencing.

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

None

***(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 7:16 p.m.***

**INDIVIDUAL CONSIDERATION**

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

Chair Richtsmeier asked if there were any responses sent to City Hall regarding this Special Exception request. The Board Secretary confirmed there was 1 response in disagreement.

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.

PL7 Heimbuch moved that the BOA **APPROVE** the Special Exception to Brandon Godwin at 100 Pebble Creek Ct. for a fence to be constructed on his property line as presented in BOA201617.09.

Vice Chair Ware seconded the motion.

PL2 Ozzie Molina and PL3 Barbara Betik were noted absent.

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

**Record Vote:**

RICHTSMEIER	<u>AYE</u>
BETIK	<u>ABSENT</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)

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Ozzie Molina, BOA PL2

Sandra Cawley, BOA PL4

BOA PL6 (Alternate)

Mike Dooly, Code Enforcement

**CITY OF OVILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

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

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

**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 Mr. Han Lu for a residential special exception to construct a fence to the building on his property located at 130 Johnson Lane.

**Chair Richtsmeier read aloud the captioned request and opened the Public Hearing at 7:20 p.m. (Testimony that followed was under proper oath; City Representative)**

Code Officer Mike Dooly shared with the board that the fence in question was beyond the property line and in the right of way. It will be required to be moved back 8 feet to reach the designated property line. It will be chain link, and will be in-line with the other fences surrounding them in the area.

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

Code Enforcement Officer Mike Dooly shared with the Board that the homeowner was not present for the appeal and that he would be the representative for them. He explained that the applicants have a translator, due to language barrier, and they are communicating with the City through their child. The fence would be chain link and is being put up mainly for their dogs.

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

Tommy Rust – 751 Cockrell Hill Rd. – Neighbor; located at the southern border of applicants property. He stated he has no problem with the fence, and has been told by the applicant it is for their dogs.

**(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 7:28 p.m.**

**INDIVIDUAL CONSIDERATION**

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

Chair Richtsmeier asked if there were any responses sent to City Hall regarding this Special Exception request. The Board Secretary confirmed there were no responses. At this time she also inquired on PL2 Molina being allowed to vote, due to his arrival during the middle of the

*Chair Carol Richtsmeier, BOA PL1*

*Barbara Betik, BOA PL3*

*Vice Chair Richard Ware, BOA PL5*

*Stephanie Heimbuch, BOA PL7 (Alternate)*

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*Ozzie Molina, BOA PL2*

*Sandra Cawley, BOA PL4*

*BOA PL6 (Alternate)*

*Mike Dooly, Code Enforcement*

**CITY OF OVILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

public hearing. The board secretary informed the board that PL7 Heimbuch would vote in this hearing, and PL2 Molina would vote for the next appeal since he did not hear most of this case's testimony.

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.

PL7 Heimbuch moved that the BOA **APPROVE** the Special Exception to Han Lu at 130 Johnson Lane for a fence to be constructed on his property line as presented in BOA201617.10.

Vice Chair Ware seconded the motion.

PL2 Ozzie Molina was noted as late arrival and PL3 Barbara Betik was noted absent.

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

**Record Vote:**

RICHTSMEIER	<u>AYE</u>
BETIK	<u>ABSENT</u>
CAWLEY	<u>AYE</u>
WARE	<u>AYE</u>
MOLINA	<u>NO VOTE- LATE ARRIVAL</u>
HEIMBUCH	<u>AYE</u>

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

**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 Mr. Han Lu for a residential variance to construct an accessory building that is not located behind the rear plane of his property located at 130 Johnson Lane.

***Chair Richtsmeier read aloud the captioned request and opened the Public Hearing at 7:33 p.m. (Testimony that followed was under proper oath; City Representative, ALSO speaking in place of applicant)***

Code Officer Dooly shared with the board that originally the question asked from the applicant was if they could build a pigeon loft. Officer Dooly explained that if it did not exceed 8 by 8 foot measurements it would be permitted. During the construction, it was realized that the loft would be too big and would be built on an accessory building that was not behind the rear plane of the home and was not applied for or approved. The applicant explained to Officer Dooly that he could not place the building behind the rear plane because it would position the loft too close to the neighbor's home. His concern was the smell, noise, and attracting other animals, etc.

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

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

**CITY OF O'VILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

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

None present.

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

Tommy Rust – 751 Cockrell Hill Rd. – Stated that he is very concerned about the health hazard the birds will cause from their droppings, as well as the smell, & being too close to his property, although, he does not want to keep neighbor from his hobby.

**(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 7:38 p.m.**

**INDIVIDUAL CONSIDERATION**

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

Chair Richtsmeier asked if there were any responses sent to City Hall regarding this Variance request. The Board Secretary confirmed there were no responses.

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 **negative** outcome.

Vice Chair Ware moved that the BOA **DENY** the Variance to Han Lu at 130 Johnson Lane to construct an accessory building behind the rear plane of the main dwelling on his property located at 130 Johnson Ln. BOA201617.11.

PL2 Molina seconded the motion.

PL3 Barbara Betik was noted absent.

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

**Record Vote:**

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

Chair Carol Richtsmeier, BOA PL1

Barbara Betik, BOA PL3

Vice Chair Richard Ware, BOA PL5

Stephanie Heimbuch, BOA PL7 (Alternate)

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Ozzie Molina, BOA PL2  
Sandra Cawley, BOA PL4

BOA PL6 (Alternate)

Mike Dooly, Code Enforcement

**CITY OF O'VILLA MINUTES**  
**Monday, May 22, 2017**  
**Regular Board of Adjustment Meeting**

HEIMBUCH                    NO VOTE

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

**ITEM4.**    **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 7:45 p.m.

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Carol Richtsmeier, Chair

ATTEST:

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Glennell Miller, Board Secretary

*Approved on August 21, 2017*

**Attachment(s):** *Findings-of-Fact (3)*



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

Applicant: BRANDON GODWIN  
Address: 100 PEBBLE RIDGE CT.

Case Number: BOA201617.09

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	ABSENT		
Member Ozzie Molina	ABSENT		
Member Sandra Cawley	AYE		
Vice Chair Richard Ware	AYE		
Alt. Member Paul Haney	ABSENT		
Alt. Member Stephanie Heimbuch	AYE		

**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**

**Attest:**

\_\_\_\_\_  
**City or Board Secretary**

\_\_\_\_\_  
**DATE**



## 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	AYE		
Member Barbara Betik	ABSENT		
Member Ozzie Molina	ABSENT		
Member Sandra Cawley	AYE		
Vice Chair Richard Ware	AYE		
Alt. Member Paul Haney	ABSENT		
Alt. Member Stephanie Heimbuch	AYE		

**TOTALS:**

4  
0  
0      FOR  
                  AGAINST  
                  ABSTAIN

**The special exception is hereby:**

✓ granted      \_\_\_\_\_ denied

\_\_\_\_\_  
**Presiding Officer of BOA**

\_\_\_\_\_  
**DATE**

**Attest:**

\_\_\_\_\_  
**City or Board Secretary**

\_\_\_\_\_  
**DATE**



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

Applicant: HAN LU

Case Number: BOA201617.11

Address: 130 JOHNSON LANE

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

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

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

FOR      AGAINST      ABSTAIN

Chair Carol Richtsmeier	AYE		
Vice-Chair Richard Ware	AYE		
Member Barbara Betik	ABSENT		
Member Sandra Cawley	AYE		
Member Ozzie Molina	AYE		
Alt. Member Paul Haney	ABSENT		
Alt. Member Stephanie Heimbuch	NO VOTE		

TOTALS:

4 FOR – **AYE TO DENY**  
0 AGAINST  
0 ABSTAIN

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

\_\_\_\_\_  
Presiding Officer of BOA

\_\_\_\_\_  
Date

\_\_\_\_\_  
City or Board Secretary

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

Item: 1

### DISCUSSION & ACTION

Meeting Date: August 21, 2017

#### 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.

2. Meetings shall be held at the call of the chairman and at such other times as the Board may determine.
3. All meetings shall be open to the public, except as permitted by the Texas Open Meetings Act.

B. Minutes. The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Board, and which shall not become effective unless the Board has furnished a copy of the rules to the City Administrator.

C. Rules. The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance and state statutes.

D. Quorum. A quorum for the conduct of business shall consist of four members of the Board.

E. Misconduct. The members of the Board shall regularly attend meetings and public hearings of the commission and shall serve without compensation. Three consecutive unexcused absences or such other misconduct as the Council may specify by resolution shall constitute grounds for dismissal.

#### **45.4 OFFICERS**

A. Duties. Duties of the officers shall be as follows:

1. The chair shall preside at all meetings and may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court.
2. The vice-chair shall assist the chair in directing the affairs of the Board and act in the absence of the chair.

B. Term. Officers will serve for a term of one year or until a successor is appointed.

#### **45.5 POWERS OF THE BOARD**

The Zoning Board of Adjustment shall have the powers and exercise the duties of a Zoning Board of Adjustment in accordance with Section 211.008 of the Texas Local Government Code. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications, and to that end shall have the necessary authority to ensure continuing compliance with its decision. The Zoning Board of Adjustment shall have the following powers and duties:

- A. Interpretation. To render an interpretation of the zoning regulations or the manner of their application where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the administration of this ordinance. In reaching its decisions, the Board shall establish guidelines for future administrative action on like matters.

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

### Item: 2

#### DISCUSSION & ACTION

**Meeting Date:** August 21, 2017

#### 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 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 VICE 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.

2. Meetings shall be held at the call of the chairman and at such other times as the Board may determine.
3. All meetings shall be open to the public, except as permitted by the Texas Open Meetings Act.

B. Minutes. The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Board, and which shall not become effective unless the Board has furnished a copy of the rules to the City Administrator.

C. Rules. The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance and state statutes.

D. Quorum. A quorum for the conduct of business shall consist of four members of the Board.

E. Misconduct. The members of the Board shall regularly attend meetings and public hearings of the commission and shall serve without compensation. Three consecutive unexcused absences or such other misconduct as the Council may specify by resolution shall constitute grounds for dismissal.

#### **45.4 OFFICERS**

A. Duties. Duties of the officers shall be as follows:

1. The chair shall preside at all meetings and may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court.
2. The vice-chair shall assist the chair in directing the affairs of the Board and act in the absence of the chair.

B. Term. Officers will serve for a term of one year or until a successor is appointed.

#### **45.5 POWERS OF THE BOARD**

The Zoning Board of Adjustment shall have the powers and exercise the duties of a Zoning Board of Adjustment in accordance with Section 211.008 of the Texas Local Government Code. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications, and to that end shall have the necessary authority to ensure continuing compliance with its decision. The Zoning Board of Adjustment shall have the following powers and duties:

A. Interpretation. To render an interpretation of the zoning regulations or the manner of their application where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the administration of this ordinance. In reaching its decisions, the Board shall establish guidelines for future administrative action on like matters.

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

### Item: 3

#### DISCUSSION & ACTION

Meeting Date: August 21, 2017

Attachments:	
None	
Agenda Item / Topic:	
<b>ITEM 3.</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	