

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  
October 16, 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, October 16, 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

### Consent Items

- ♦ Minutes of the August 21, 2017 BOA Meeting
- ♦ Board of Adjustment Meetings Calendar FY 2017 - 2018

*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 - BOA201718.01 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS, filed by James Artis for a special exception to construct a fence to the building line on his property located at 507 Johnson Lane.

**DISCUSSION/ACTION – Consideration** of requested **Special Exception** filed by James Artis.

**ITEM 2.** **DISCUSSION/ACTION - BOA201718.02 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS, filed by Michael Hulsey for a variance to construct a fence with poles and rails facing the outside of his property located at 608 William Dr.

**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Michael Hulsey.

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

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

### Zoning Board of Adjustment Requests for Future Items

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

### **Adjournment**

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **October 16, 2017 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 13th day of October 2017, prior to 6:00 p.m.

*Glenell Miller*

Glenell Miller  
Deputy City Secretary

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

*OCTOBER 13, 2017* **TIME:** *9:00* **am/pm**  
**TIME:** *9:00* **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**  
**Tuesday, August 21, 2017**  
**Regular Board of Adjustment Meeting**

Chair Carol Richtsmeier called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:16 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
Ozzie Molina	Board Member
Stephanie Heimbuch	Board Member – Alt.
Paul Haney	Board Member – Alt.

City Manager John R. Dean Jr. and Code Enforcement Officer Mike Dooly were present. At this time Chair Richtsmeier asked Vice Chair Ware to call roll of members present. All Board members were in attendance, thus declaring a quorum.

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**

City Secretary Pam Woodall administered Oaths of Office for incumbent members and one newly appointed member to the Board of Adjustment prior to meeting

**CONSENT ITEMS**

- Minutes of the May 22, 2017 BOA Meeting

PL2 Molina made the motion that the BOA approve the consent item as presented. PL4 Cawley seconded the motion.

**VOTE: The motion carried 5-0**

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

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

PL1 Carol Richtsmeier's name was put forward to discuss as possible nomination.

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**  
**Tuesday, August 21, 2017**  
**Regular Board of Adjustment Meeting**

PL2 Molina made the motion that the Board appoints Carol Richtsmeier as Chair to the Ovilla Zoning Board of Adjustment.

Vice Chair Ware seconded the motion.

***VOTE: The motion carried 5-0, no opposition, no abstentions.***

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

PL5 Richard Ware's name was put forward to discuss as possible nomination.

PL3 Betik made the motion that the Board appoints Richard Ware as Vice Chair to the Ovilla Zoning Board of Adjustment.

Chair Richtsmeier seconded the motion.

***VOTE: The motion carried 5-0, no opposition, no abstentions.***

**ITEM 3. 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 7:26 p.m.

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Carol Richtsmeier, Chair

ATTEST:

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Glennell Miller, Board Secretary

*Approved on October 16, 2017*

# **FY2015-2016 BOARD OF ADJUSTMENT MEETINGS CALENDAR**

**INCLUDING APPLICANT REQUEST  
SUBMISSION DEADLINES**

<b>Applicant Application Submission Deadline</b>	<b>BOARD OF ADJUSTMENT Meeting Dates</b>
	Third Monday of each month (except for holidays- set to the following day, Tuesday)
September 16, 2017	October 16, 2017
October 20, 2017	November 20, 2017
November 17, 2017	December 18, 2017
December 15, 2017	January 16, 2018 (TUES)
January 19, 2017	February 19, 2018
February 19, 2017	March 19, 2018
March 16, 2017	April 16, 2018
April 20, 2017	May 21, 2018
May 18, 2017	June 18, 2018
June 15, 2017	July 16, 2018
July 20, 2017	August 20, 2018
August 17, 2017	September 17, 2018

**The Board of Adjustment meets the third Monday of each month in the  
Ovilla City Hall Council Chamber Room, at 7:00 P.M.**



# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

Item: 1

### DISCUSSION & ACTION

Meeting Date: October 16, 2017

Attachments:	
1. Permit Application	
2. Special Exception Application with attachments	
3. Findings of Fact	
Agenda Item / Topic:	
<b>ITEM 1.</b>	BOA201718.01 – Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3, <u>FENCES IN RESIDENTIAL DISTRICTS</u> , filed by James Artis for a special exception to construct fence to the building line on his property at 507 Johnson Lane.
Discussion / Justification:	
<b>APPLICANT:</b>	James Artis
<b>LOCATION:</b>	507 Johnson Lane
<b>ZONING:</b>	RE Residential
<b>Applicant's Proposal:</b> Applicant requests to construct a fence to the property line.	
Discussion:	
<b>The Ovilla Code of Ordinances, Chapter 14, Section 35.3, <u>FENCES IN RESIDENTIAL DISTRICTS</u>, states:</b>	
<b>D. Support and Rails.</b>	
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.	
<b>BOARD DISCUSSION:</b> The Board is allowed to grant a Special Exception under certain circumstances & after review of the <b>Findings of Fact</b> form.	
<b>NOTICES:</b> One public notice listed in the The Red Oak Record; 11 certified letters mailed. There has been one response. (attached with packet)	
Recommendation / Staff Comments:	
N/A	
Sample Motion(s):	
<b>"I MAKE A MOTION THAT THE BOA GRANTS &amp; APPROVES/DENIES THE SPECIAL EXCEPTION TO JAMES ARTIS AT 507 JOHNSON LANE, TO CONSTRUCT A FENCE ON THE BUILDING LINE, AS PRESENTED IN BOA201718.01."</b>	

# 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:	5642	Valuation:	
Zoning:		Valuation w/land:	
Project Address:	507 Johnson Lane		
Lot:	Subdivision:		
Project Description:	NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: <input type="checkbox"/>
	PLUMBING/ELECTRICAL <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>
	SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input type="checkbox"/>	FENCE <input checked="" type="checkbox"/>
Proposed Use:	Separate Neighbors yard to keepin horses		
Description of Work:	Install Pipe Fence w/ No climb and T Post w/ No climb		
Area Square Feet:	Covered	Porch:	Total: 201' Number of stories:
Living:	Garage:		

Homeowner's name:	James Artis		
Address:	507 Johnson Lane		
Phone Number:	Home Number	Mobile Number: 972-515-1708	

General Contractor	Contact Person	Phone Number	Contractor License Number
Raleigh Fence Co	Tamie Surratt	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: Tamie Surratt

Date: 8/17/17

### OFFICE USE ONLY:

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

Plan Review Fee:

Receipt #

Total Fees:

Building Permit Fee:

Park Impact Fee:

Capital Recovery Fee:

Fire Meter:

Water Meter Cost:

Water Impact:

Sewer Connection Fee:

Sewer Impact:

Issued Date:

Expires: 180 Days

Issued By:

BV Project #

BOA 201718.01

SURVEY PLAT

COPYRIGHT © DATE 09-30-16

INST. NO. 2011000001083

1/2" S89°34'E  
IPS 239.14' 5/8  
IRF

BEING A PART OF THE SOUTH 55.25 ACRES  
OUT OF THE SOUTHWEST ONE-FOURTH OF  
THE H.M. RAWLINS SURVEY, ABSTRACT NO.  
1202 AND BEING MORE FULLY DESCRIBED  
AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF SAID 55.25 ACRE TRACT AND IN THE CENTER OF JOHNSON LANE, SAID POINT BEING S89°34'E, 731.38' FROM THE SOUTHWEST CORNER OF SAID RAWLINS SURVEY;

THENCE NO'14'W PARALLEL WITH THE  
EAST LINE OF SAID 55.25 ACRE TRACT,  
PASSING A 5/8" IRON ROD FOUND  
AT 21' AND CONTINUING GENERALLY WITH  
A FENCE A DISTANCE OF 910.77'  
TO A 1/2" IRON PIPE SET FOR CORNER.

THENCE S89°34'E. GENERALLY WITH  
A FENCE, 239.14' TO A 5/8" IRON ROD  
FOUND FOR CORNER:

THENCE 500' 14'E. GENERALLY WITH  
A FENCE, PASSING A 5/8" IRON ROD  
FOUND AT 889.77' AND CONTINUING A  
TOTAL DISTANCE OF 910.77' TO A POINT  
IN THE CENTER OF SAID JOHNSON LANE.

THENCE N89°34'W WITH THE  
CENTER OF SAID JOHNSON LANE,  
239.14' TO THE PLACE OF BEGINNING  
AND CONTAINING 5 ACRES OF LAND  
OF WHICH 2.55 ACRES, MORE OR LESS,  
LIES IN ELLIS COUNTY AND 2.45 ACRES,  
MORE OR LESS, LIES IN DALLAS COUNTY.

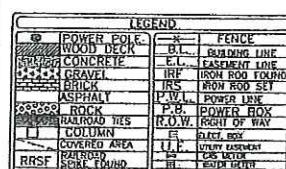
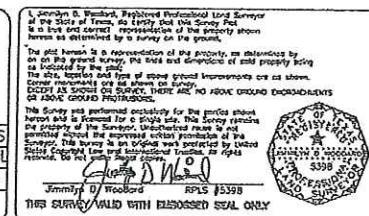
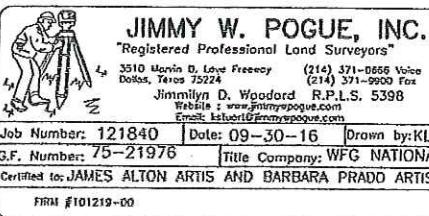
INST. NO.  
201400110159  
O.P.R.D.C.T.  
VOL. 2642  
PG. 623  
D.R.E.C.T.

↑ 4' TA

4' TALL  
No CLIMB FENCE  
2' DEEP  
1/2 CONCRETE

P.O.B. 239, 14 JOHNSON LANE

N89°34'W REFERENCE BEARING FROM DEED



NOTE: THE FOLLOWING EASEMENTS  
CONTAIN INSUFFICIENT INFORMATION  
TO LOCATE ON OR OFF SUBJECT  
PROPERTY: VOL. 472 PG. 234  
AND VOL. 2488 PG. 395 D.R.E.C.T.

BOA 201716.01

## CHAPTER 14

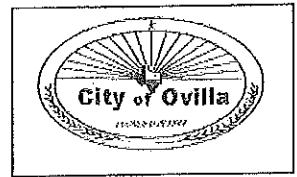
### ZONING

#### 35.3 FENCES IN RESIDENTIAL DISTRICTS

##### 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.

# INSTRUCTIONS FOR COMPLETING THE REQUEST FOR A **SPECIAL EXCEPTION**



## TO THE OVILLA BOARD OF ADJUSTMENT

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### ORDINANCE 2010.023

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:

1. That the use is specifically permitted under the ordinance and the requirements for such use are met; and
2. That the locations of proposed activities and improvements are clearly defined on the site plan filed by the applicant; and
3. That the **SPECIAL EXCEPTION** will be wholly compatible with the used and permitted development of adjacent properties.

**Condition 1** requires that if the special exception is granted, it may not be against the public interest. "Public Interest" for **SPECIAL EXCEPTIONS** is defined as the well-being of the general public, with specific attention on those members of the public that could be directly affected by the proposed special exception.

**Condition 2** requires that the enforcement of a zoning regulation causes an "unnecessary hardship." The hardship must be caused by the property itself, for reasons such as narrowness, shallowness, shape, topography or other physical conditions related to the property. The hardship must not be caused by the applicant, cannot be personal in nature, cannot be financial only, and must relate to the very property for which the **SPECIAL EXCEPTION** is sought.

**Condition 3** requires that if the Board of Adjustment grants the **SPECIAL EXCEPTION** as requested, it will not grant a privilege in conflict with other provisions of the ordinance.

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 adjustments 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.

DATE: 8-23-2017  
Case No. BOA 201718.01

## REQUEST FOR A SPECIAL EXCEPTION

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. 1302 PT B HM Property Address 507 Johnson Lane  
Block No. RAWLINGS POLSON AC 2.55 Ac Ovilla, TX 75154  
Property Zoned RE RESIDENTIAL

OWNER OF PROPERTY James & Barbara Artis

APPLICANT James & Barbara Artis

SPECIAL EXCEPTION FENCE: PROPERTY LINE



Case No. BOA 201718.01

The Applicant/Owner, James & Barbara Artis, of Ellis County, requests that the Ovilla Board of Adjustment grant the following SPECIAL EXCEPTION to Article 35.3, Chapter 14, Section C & D of the Ovilla Zoning Ordinance. Please state in detail what type of SPECIAL EXCEPTION you are seeking, attach additional sheets if necessary.

Extend fence on property line in front of  
House to existing front fence

Has a previous appeal been filed on this property?

YES  NO

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



Case No. BOA 201718.01

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 James & Barbara Artis

Mailing Address 507 Johnson Lane

Ovilla, TX 75154

Telephone (Hm) 972-515-1708

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

Email JARTIS08@gmail.com



8-23-17

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: 8/23/2017 HEARING DATE: 10/16/2017

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

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

Case No. BOA 201718.01

### 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 IT is a fence on property line.*

**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 used 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.*



9 October 2017

To: Ovilla Board of Adjustment

From: Alan and Kathy Whittaker  
523 Johnson Ln  
Ovilla, Tx 75154

Subject: BOA-201718.01 Request by Mr. and Mrs. James Artis (507 Johnson Ln) for adjustment to allow construction of a fence on their property's building line.

Request for Denial of the "Special Exception":

We respectfully request that the Ovilla Board of Adjustment DENY the request from Mr. and Mrs. James Artis to allow construction of a fence ON THE PROPERTY'S BUILDING LINE along the east side of their property.

There is NO COMPELLING NEED on the part of Mr. and Mrs. Artis for the "special exception" along the east side of their property (507 Johnson Ln).

Allowing the "special exception" along the east side of the property WILL CREATE A HARDSHIP for our ability to properly maintain our property (523 Johnson Ln).

We have no objection to any variance that may be granted along the north property line that abuts Johnson Ln.

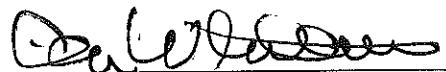
Discussion:

We have no objection to Mr. and Mrs. Artis constructing a fence on their property, but there is NO COMPELLING NEED to allow the variance for building on the property's building line along the east side of the property. The large open area (approximately 2 acres) at the front of the Artis' property allows ample room for a fence that is not on the property's building line. There is no compelling need to allow the variance on the east side of the property and denying the variance will cause no hardship to Mr. and Mrs. Artis.

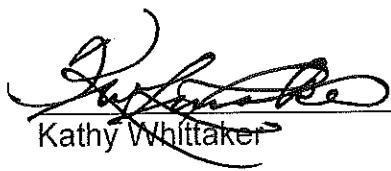
Allowing the fence variance on the east of the Artis' property will create a hardship for us. We have a row of crepe myrtle bushes along the west side of our property where the fence variance is being requested. The construction of a fence along the east side of the Artis property will effectively deny us the ability to use a mower to trim the grass between the bushes and the fence and much of the grass maintenance now will have to be accomplished with a grass trimmer.

We need as much space as possible along the west side of our property to keep the grass trimmed and our property properly maintained. As such, we respectfully request that the Ovilla Board of Adjustments deny the request by Mr. and Mrs. Artis for a "special exception" to allow construction of a fence ON THE PROPERTY'S BUILDING LINE along the EAST SIDE of their property

Sincerely,



Alan Whittaker  
523 Johnson Ln.  
Ovilla, TX 75154  
972-249-4943



Kathy Whittaker



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

Applicant: JAMES ARTIS Case Number: BOA201718.01

Address: 507 JOHNSON LANE

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			
Vice Chair Richard Ware			
Member Ozzie Molina			
Member Sandra Cawley			
Member Barbara Betik			
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: October 16, 2017

#### Attachments:

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

#### Agenda Item / Topic:

**ITEM 2.** BOA201718.02 – Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3, FENCES IN RESIDENTIAL DISTRICTS, filed by Michael Hulsey for a variance to construct fence with the poles and rails on the outside of his property at 608 William Drive.

#### Discussion / Justification:

**APPLICANT:** Michael Hulsey  
**LOCATION:** 608 William Drive  
**ZONING:** RE Residential

**Applicant's Proposal:** Applicant requests to construct a fence with poles and rails on the outside of his property.

#### Discussion:

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

**D. Support and Rails.**

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

**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; 9 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 VARIANCE TO MICHAEL HULSEY AT 608 WILLIAM DRIVE, TO CONSTRUCT A FENCE WITH THE POLES AND RAILS ON THE OUTSIDE AS PRESENTED IN BOA201718.02."**

# City of Ovilla

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

105 S. Cockrell Hill Rd.  
Ovilla, Texas 75154

## Residential Building Permit Application

Building Permit Number:	5640		Valuation:	15,174		
Zoning:			Valuation w/land:			
Project Address:	608 William Dr					
Lot:	5	Subdivision:	Hollywood E (1)			
Project Description:	NEW SFR	<input type="checkbox"/>	SFR REMODEL/ADDITION	<input type="checkbox"/>	SPECIFY OTHER:	
	PLUMBING/ELECTRICAL	<input type="checkbox"/>	FLATWORK	<input type="checkbox"/>	SPRINKLER	
	SWIMMING POOL	<input type="checkbox"/>	ACCESSORY BUILDING	<input type="checkbox"/>	FENCE	<input checked="" type="checkbox"/>
Proposed Use:						
Description of Work:	6' Cedar Fence w/ steel Post					
Area Square Feet:	Covered		Total:		Number of stories:	
Living:	Garage:	Porch:				

Homeowner's name:	Michael C. Hulsey		Lisa A. Hulsey
Address:	608 William Dr	75154	mch0770@yahoo.com
Phone Number:	Home Number	Mobile Number: 817 896 6614	

General Contractor	Contact Person	Phone Number	Contractor License Number
Custom Fence & Progol Inc	Blanca Lopp	469-377-9335	
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number

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

\*\*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: 8/15/2017

OFFICE USE ONLY:

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

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

Receipt # \_\_\_\_\_

Fence Already Constructed.  
Poles on outside.

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

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

\*B00701718 07





August 9, 2017

Michael C & Lisa A Hulsey  
608 William Dr  
Ovilla, TX 75154

Dear Property Owner:

You are being contacted to ask your assistance in correcting a code violation on the property, 5 C HOLLYWOOD E III 1.016 ACRES (**608 William Dr**) in Ovilla, TX. **This is in reference to construction without a permit.**

**The Ovilla City Code of Ordinances**

**Sec. 3.02.052 Building permit required**

*A building permit is to be required before construction is begun for all construction within the city, including, but not limited to, residences, business buildings, fences, alterations of existing structures, portable storage buildings and sheds, and patio covers. (1989 Code, Ch. 3, sec. 1.02)*

Upon receipt of this letter, you will have ten (10) days to apply for and obtain a fence permit. Failure to correct the above mentioned violation will result in a summons to court.

Thank you in advance for your assistance in keeping our community a clean and beautiful place to live. If you have any questions, please contact me at 972/617-7262.

Sincerely,

*Mike Dooly*

Mike Dooly  
Code Compliance Department

8/14 → 10:11 Left msg on Voice Mail  
→ 2:30 Left V.M.



## 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. BOA201718.02

### 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.

Directly behind our house is agricultural land containing acres of a large corn field with a tree line, brush and thick vegetation along the property line. On one side of us is also a tree line and a chain-link fence which is covered in poison ivy. The other side has various tall plants, vines and trees as well.

**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.

We have a pet pig and felt it best to have the rails on the outside of the fence for stability, strength and sturdiness making it so he cannot chew on the rails. The section of the fence facing the street will be covered in wire. (When making this decision, we were not aware of the ordinance.) With the thick vegetation all around us, the poles and rails are mostly covered from the street view as well as the neighbors. Neighbors on both sides are happy with the new fence and have no issues regarding the poles and rails.

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

We hired a contractor to handle the job and to construct a beautiful, solid, well-built fence. With the growth of the vegetation and trees on the property line on all sides, the strongest side of the fence was placed out. We did not plant any of the trees or vegetation, it is not on our property.

**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.



Due to the past storms we have had, this fence was built with insurance money. All the funds have been used resulting in a beautifully finished fence to improve the appearance of our house and the neighborhood. No funds remain to rectify the current situation. The strength and the integrity of the fence would be highly comprised if the fence had to be turned around. As it was built very sound using 16' cedar boards staggered along the top cap and the same for the rails.

**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.

We have no current or future plans to have a pool in our back yard. This fence will not be injurious to the neighborhood or detrimental to the public welfare. No poles or rails directly face any streets. We approached our neighbors before constructing the fence and after completion and they are pleased with the finished product and do not have any issues with the fence. Please see attached signatures.

**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.

Wood fences are permitted in the ordinance. We are asking the board to allow the fence to remain as is since the post and rails are mostly hidden with foliage. Double siding the fence will result in premature aging and dilapidation of the fence with the added weight to the rails. Double siding could also cause potential rodent hazard due to the adjacent corn field. If this is not acceptable, can the post be painted? Or box in the post?

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

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

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

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



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



Case No. BOA201718.02

## REQUEST FOR A VARIANCE

To the

### OVILLA ZONING BOARD OF ADJUSTMENT

CITY OF OVILLA

§

COUNTY OF ELLIS

STATE OF TEXAS

§

#### TO THE HONORABLE BOARD OF ADJUSTMENT

Property description (Attach field notes if necessary):

Lot No. 5

Property Address 608 William Dr

Block No. C

Ovilla TX 75154

Zoning Residential

The Applicant, Michael and Lisa Hulsey, of Ellis County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article 3.05, Chapter 3, Section 3.05.006 of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

Requesting a variance on our newly constructed fence to allow post and rails to remain facing out on the sides and back as they are mostly covered with trees, bushes and other vegetation. No post are facing the street.

Has a previously appeal been filed on this property?

YES / NO

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



• Case No. BOA 201718.02

I have completed the following requirements:

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

I authorize \_\_\_\_\_ of \_\_\_\_\_,  
(Applicant's agent) (Address)

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

Respectfully submitted:

Applicant's Name Michael and Lisa Hulsey

Mailing Address 608 William Dr

Ovilla TX 75154

Telephone (Hm) 817-896-6614 Lisa or 682-234-5797 Michael

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

Email [mch0770@yahoo.com](mailto:mch0770@yahoo.com)

Michael Hulsey Lisa Hulsey

Applicant's signature

8/24/17

Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**

Neighbors of 608 William Drive

We would like to inform you that we are filing a Variance with the City of Ovilla regarding our newly constructed fence. According to the city ordinance, post and rails must not be exposed to a neighbor's yard. Unfortunately we were not aware of this ordinance and therefore is the reason for the variance request.

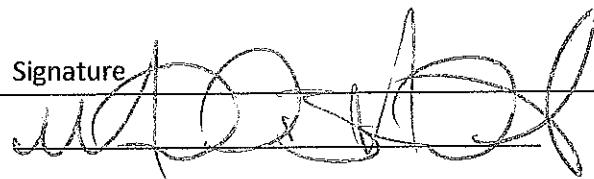
However before the contractor started tearing down our old, ugly fence we did visit with our neighbors and ask if you preferred the nice side out and the response we received was you did not care either way. We did tell you that the new fence would be a very nice, quality fence. That finished product is exactly that, a beautiful fence which replaced the rotted, leaning fence with missing planks.

We are asking if you will please sign below in support of leaving our fence (with the poles and rails out) just as it.

Name and Address

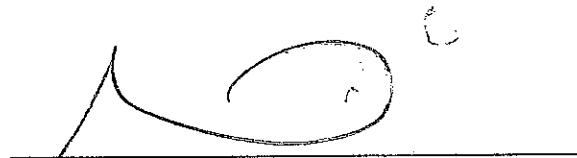
MICHAEL B. HEIMBRECHT  
613 WILLIAM DRIVE  
OVILLA, TX 75154

Signature

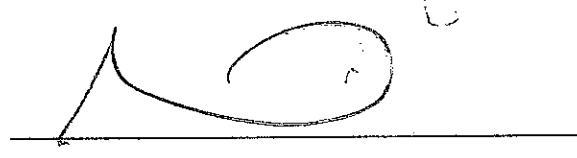


Brian Groll  
606 William Dr  
Ovilla, TX 75154

B - Groll



Andy Elkins  
611 Williams Dr  
Ovilla, Tx. 75154



Thank you for your support

Michael and Lisa Hulsey

608 William Dr.

Ovilla, TX 75154

Name & Address

Mike & Debbie Jones  
610 William Dr.  
Ovilla, Tx 75154

Signature



## RETAIL INSTALLMENT CONTRACT

## CUSTOM FENCE &amp; PERGOLA, LLC

3230 McCarver Court  
Midlothian, TX 76065  
blake.fence@yahoo.com

FTW/DAL: 469-337-9335

www.customfencepergola.com

This contract made and entered into on 6/26/2017 between Buyer & Seller

Customer: Mike Hulsey Company: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 6008 William Dr. City: Wimberly Texas Zip: 75154  
 Jobsite Address: \_\_\_\_\_ City: \_\_\_\_\_ Texas Zip: \_\_\_\_\_  
 Cell # (682) 234-5797 WK# \_\_\_\_\_ Hm# \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Hereinafter referred to as "BUYERS" and Custom Fence Pergola hereinafter referred to as "SELLERS." BUYERS hereby contract with an authorized SELLER to furnish all necessary materials and labor unless otherwise specified below, to install, construct and place the improvements on the premises described below according to the following specifications, terms and conditions:

## SPECIFICATIONS FOR PROJECT

Appx 50' x 10'  
 1x6x6' - Side by Side, Western Red Cedar, #2 B+r  
 H.D. .095- 9-2 3/8" galv. steel post set on 8" o/c 33"  
 deep w/ 80 lbs 3500 P.S.I. concrete per hole, n/l post capped  
 H.D. galv. Simpson nail brackets, 2x4x16' cedar rails,  
 2x6x16' P.T. rot board (5' base)  
 (3) 5' walk gates w/ 4' top  
 (1) 14' slide gate w/ H.D. Frame  
 Removal of such trees from fence, and off post  
 \$13,209-

<u>X OPT Add 2x6x16' top cap &amp; 1x4x8' top trim</u>	Total Price: \$
<u>\$ 1965.00</u>	Discounts: \$
Total Price with Discounts: \$ 15,174 -	

Custom Fence & Pergola requires written change orders for any deviation to the above specifications. On the occasion our representative is asked to perform work not specified above, and written change order is not executed, the homeowner is responsible for value received.

Verbal agreements are not binding if no value is received. All agreements are contingent upon strikes, accidents, weather or other delays beyond our control. Seller nor contractor will deviate from the original agreement or price without a written change of order.

All balances are due upon completion. Unpaid balances of cash transactions will be subject to the maximum interest allowable under Texas Law with respect to current Usury Laws. Maximum interest will be 18% per annum. Homeowner agrees that non-payment of an outstanding balance will result in filing a lien on said property.

1 yr. warranty on install defect, we are not responsible for cracked pickets, surface cracks, or acts of nature, property lines, ground movement or customer installed utility & sprinkler lines.

Buyer acknowledges receipt of a fully completed copy of this contract. I, or we, have read this contract, understand and agree with the conditions herein. YOU THE BUYER MAY CANCEL THIS TRANSACTION ANYTIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION.

Presented by: Blake Lippman 6/24  
Michael C. Hulsey 6/30/17  
 Home Owner / BUYER Date  
Greg A. Hulsey 6/30/17  
 Home Owner / BUYER Date

STH 2500 2160.00  
+\$2500 for motor

Paid in Full  
8/8/2017  
✓ #2017273473  
✓ #8271  
Blake Lippman  
Custom Fence & Pergola  
total - \$15,174 -  
Pr-jul 11  
.12% -

## ARTICLE 3.05 FENCES

### Sec. 3.05.001 Definitions

(a) For the purpose of this article, the following definitions shall apply:

*Fence.* Any wall or structure more than eighteen inches (18") in height constructed for the purpose of enclosing, screening, [or] restricting access to, [a] building or structure.

(b) Other definitions as to front yards, rear yards, lot lines, etc., are described in the city's zoning ordinance. All applicable definitions of that ordinance shall also apply to this article.

(1989 Code, ch. 3, sec. 9.01)

### Sec. 3.05.002 Penalty; additional remedies

Any person or corporation who shall violate any of the provisions of this article or fail to comply therewith or with any of the requirements thereof or who shall build or alter any building or use in violation of any statement or plan submitted and approved hereunder shall be guilty of a misdemeanor, and each owner or owners of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. The city likewise shall have the power to enforce the provisions of this article through civil action as provided by state law. (1989 Code, ch. 3, sec. 9.12)

### Sec. 3.05.003 Permit required

(a) It shall be unlawful for any persons, group of persons, or corporation to construct, or have constructed, any type of fence, or any part of a fence, without first having secured a permit from the city.

(b) The fee shall be as set out in the fee schedule found in appendix A of this code.

(1989 Code, ch. 3, sec. 9.02)

### Sec. 3.05.004 Application for permit

Any person, group of persons, or corporation must supply the following information when applying for a permit to erect a fence:

(1) Applicant's name and address; and, if the person represents a company or corporation, the name and address of the company representative making the request and the name of the company's president;

- (2) Name of the owner of the property;
- (3) Local address where the fence is to be erected;
- (4) Type of fence, i.e., stone, brick, wood picket, etc.;
- (5) Height of fence;
- (6) Graphic outline of the property to be fenced, with the fence signified by a dark line(s);
- (7) Section of fence drawn to show post sizes and proposed depth to be set in the ground;
- (8) Approximate value.

(1989 Code, ch. 3, sec. 9.03)

#### **Q Sec. 3.05.005 Height requirements for residential fences**

- (a) It shall be unlawful to erect a fence at a height exceeding eight feet (8') in any side yard or rear yard.
- (b) Front yard fences must be of the "open air" type, such as chain link, cedar posts, split rail, decorative iron, etc. Such fences may [not] exceed six feet (6') in height. If subdivision restrictions prohibit such fences, then such restrictions shall prevail.

(1989 Code, ch. 3, sec. 9.04)

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

- (a) It shall be unlawful for any fence that is electrically charged in any form or manner to be erected in an area zoned for residential use. This does not apply to usage for restraining livestock in which case electrical charge warning signs must be posted every seventy-five feet (75'). Electrical charging units must be UL approved and of the DC variety only.
- (b) Fences will be constructed in such a manner to ensure structural stability. Posts will be set in concrete of sufficient thickness to provide stability. Wooden fences: The posts and rails of a new or extended fence must not be exposed to an adjacent street, or a neighbor's yard, in other words, the smooth side of a fence must face an adjacent public street or a neighbor's property. Also, both new and replacement wooden fences must have metal posts set in concrete.
- (c) Fences shall be constructed of city code approved wire, wood, wrought iron, vinyl, brick, pierced brick, stone, mortar, blocks, wood or other fence parts or a combination of some or all. The density and design is subject to the building code of the city. Wooden fences are required to

be natural wood with metal posts except for decorative wooden rail fences. Wood byproducts and wood particleboards or sheets of wood byproducts of any type are prohibited.

(d) All fences listed under subsection (c) as listed above must have appropriate support, as approved by the building inspector.

(e) In order to allow for the entrance and exit of fire department and police department personnel, there must be at least one (1) gate no less than three feet (3') wide on each fence that is adjacent or parallel to a public alley or utility easement. This does not pertain to those easements which the city has allowed to be completely fenced in.

(f) In all residential developments with rear or side entry access to a garage or carport, the fence height must provide visibility of the street or alley from the driveway for a distance of at least ten feet (10') on both sides of the driveway.

(g) A fence higher than three and one-half feet (3-1/2') above the established street grades cannot be constructed within twenty feet (20') of any street intersection (refer to Ordinance 160 revised, part II, section 10-2).

(h) Materials that are not usual fence materials, i.e., chicken wire, hardware cloth, etc., shall not be used as fencing unless for agricultural usage.

(i) Barbed wire shall be used only for agricultural use, to restrain livestock.

(Ordinance 2013-021 adopted 7/8/13)

### **Sec. 3.05.007 Swimming pool fences**

(a) Every outdoor swimming pool must be enclosed by a wall or fence not less than four feet (4') in height. It shall be constructed in such a manner so that there are no gaps or openings, other than gates or doors, larger than four inches (4") measured horizontally on vertical fences and measured vertically on horizontal fences. A dwelling or building may be used as part of the fence or enclosure.

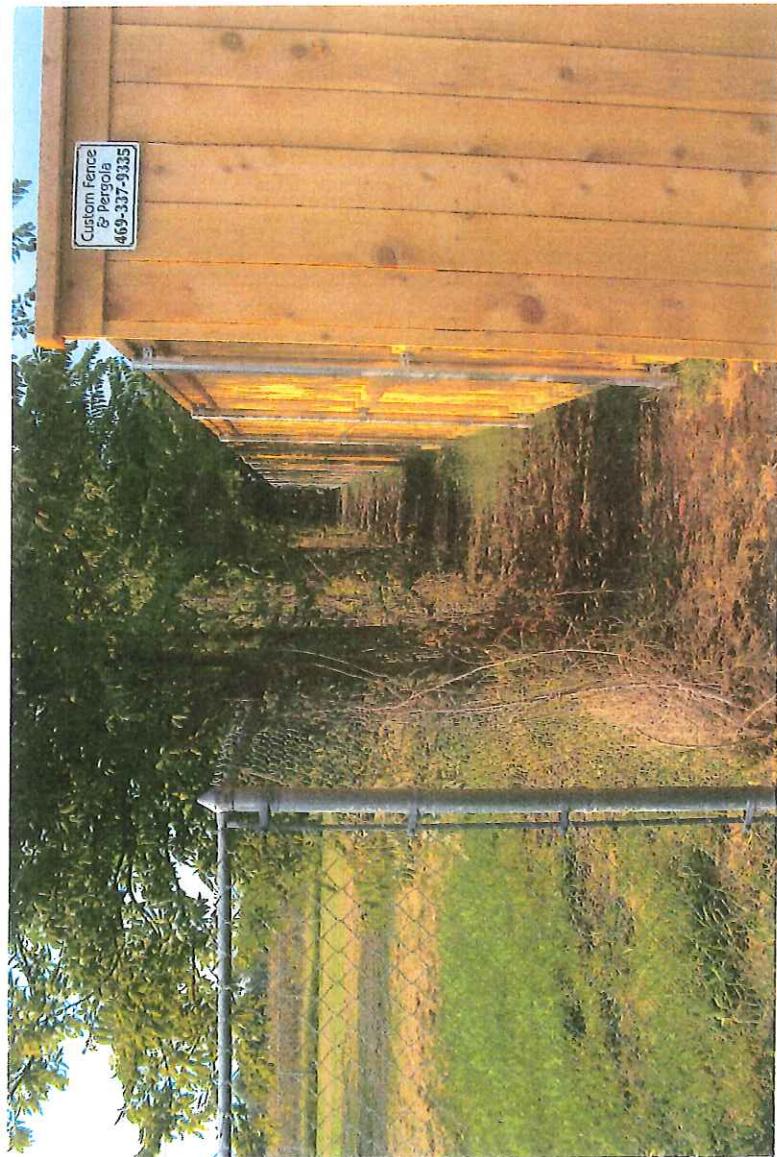
(b) All gates and/or doors permitting entrance and exit to the pool area shall be equipped with a self-closing and self-latching device for keeping the gate and/or door closed at all times when not in actual use.

(c) Hot tubs and individual spas must be covered when not in use. Locking devices, where practical, are suggested.

(d) Existing facilities not meeting the requirements of this section must be brought into compliance within one (1) year of issuance of this section. If the provisions of this section conflict with any provisions in the Uniform Swimming Pool, Spa and Hot Tub Code, the more stringent provisions shall govern.

(1989 Code, ch. 3, sec. 9.06)

**State law references**—Swimming pool enclosures, V.T.C.A., Local Government Code, sec. 214.101 et seq.; pool yard enclosure for multiunit rental complex, property owners' association, etc., V.T.C.A., Health and Safety Code, ch. 757.

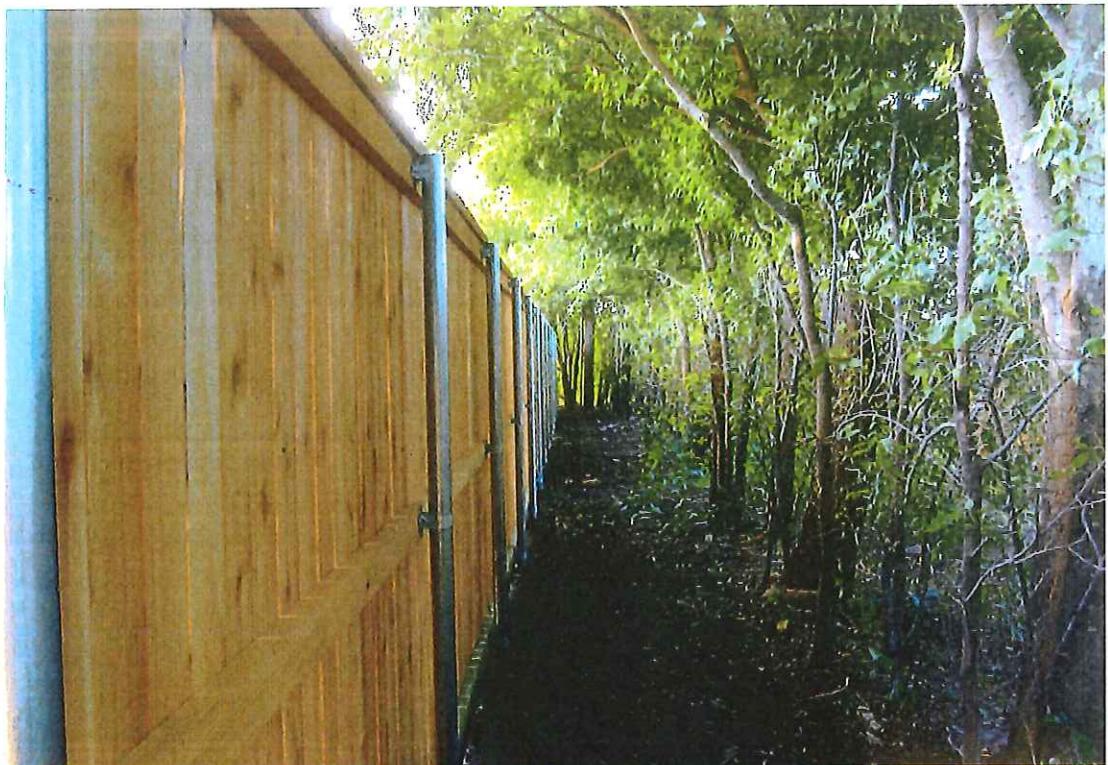
















## City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: MICHAEL HULSEY  
Address: 608 WILLIAM DRIVE

Case Number: BOA201718.02

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

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

BOA Members present, and upon a record vote of:

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

TOTALS:

       FOR  
       AGAINST  
       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: 3

#### DISCUSSION & ACTION

Meeting Date: October 16, 2017

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