

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

AGENDA

Board of Adjustment Meeting
105 S. Cockrell Hill Road, Ovilla, Texas 75154
April 16, 2018

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, April 16, 2018 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 February 20, 2018 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. **BOA201718.06 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT filed by Sherrilyn Genovese for a residential variance to construct an accessory building that is not behind the rear plane of the main dwelling on their property located at 101 Oak Forest Lane.

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Sherrilyn Genovese.

ITEM 2. **BOA201718.07 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 OTHER SETBACKS filed by Sherrilyn Genovese for a residential variance to construct an accessory building that is not 100' (feet) from the property line located at 101 Oak Forest Lane.

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Sherrilyn Genovese.

ITEM 3. **BOA201718.08 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Jeff Thompson for a residential special exception to construct a fence to the building line on his property located at 140 Water Street..

DISCUSSION/ACTION – Consideration of requested **Special Exception** filed by Jeff Thompson.

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

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 **April 16, 2018 @ 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 April 2018, prior to 6:00 P.M.



Glennell Miller
Deputy City Secretary



DATE OF POSTING:

APRIL 13, 2018

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, February 20, 2018
Board of Adjustment Meeting

Acting Chair Barbara Betik called a meeting of the Ovilla Board of Adjustment to order at 7:00 p.m. with the following BOA members present, thus constituting a quorum:

Barbara Betik	Board Member
Sandra Cawley	Board Member
Ozzie Molina	Board Member
Stephanie Heimbuch	Alt. Board Member
Paul Haney	Alt. Board Member

Code Enforcement Officer Mike Dooly was present.

At this time Chair Betik asked Acting Vice Chair Heimbuch to call roll of members present. Board members Chair Richtsmeier, and Vice Chair Ware were absent. Alternate members Stephanie Heimbuch, and Paul Haney were in attendance thus declaring a quorum.

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

COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS

None

CONSENT ITEMS

- Minutes of the February 5, 2018 BOA *Special Meeting*

PL7 Heimbuch made the motion that the BOA approve the consent items as presented.

PL2 Molina seconded the motion.

VOTE: The motion carried 5-0

Individual Consideration

&

PUBLIC HEARING

ITEM 1. *DISCUSSION/ACTION - BOA201718.05 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS, filed by Lisa Lynn for a residential special exception to construct fence to the building line on her property located at 725 Westmoreland Rd.*

Chair Betik read aloud the captioned request and opened the Public Hearing at 7:09 p.m. (Testimony that followed was under proper oath; City Representative)

Code Enforcement Officer Mike Dooly shared with the Board a brief explanation on the applicant's request. All of the lots around the property in question have the same fence line. If the applicant is denied the appeal, her fence will need to be placed 50 ft. back from the other

CITY OF OVILLA MINUTES
Monday, February 20, 2018
Board of Adjustment Meeting

homeowners fence line, and the applicant would like for her fence to be in keeping with the look of the other homes in the neighborhood.

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

Applicant, Lisa Lynn stated that her homes sits back off of the road. She reiterated that she would like to continue the look of surrounding neighbors by placing her fence in line with theirs. It is also her intent to put up the fence and gate for safety. The applicant brought additional pictures for the Board to review in order to see what exactly is surrounding her property and the look of all fences in the area.

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

None

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

None

(Rebuttal or Final Comments:)

None

The Public Hearing was closed at 7:16 p.m.

INDIVIDUAL CONSIDERATION

DISCUSSION/ACTION – Consideration of requested **Special Exception** filed by Lisa Lynn.

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 request for Lisa Lynn at 725 Westmoreland Rd. for a special exception to construct a fence to the building line of her property as presented in BOA 201718.05.

PL Molina seconded the motion.

Record Vote:

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

VOTE: The motion to APPROVE carried 5-0.

CITY OF OVILLA MINUTES
Monday, February 20, 2018
Board of Adjustment Meeting

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 Betik adjourned the meeting at 7:20 p.m.

Barbara Betik, Acting Chair

ATTEST:

Glennell Miller, Board Secretary

Approved on April 16, 2018

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



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

Applicant: LISA LYNN
Address: 725 WESTMORELAND.

Case Number: BOA201718.05

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

TOTALS:

5
0
0

FOR
AGAINST
ABSTAIN

The special exception is hereby:

✓ **granted**

 denied

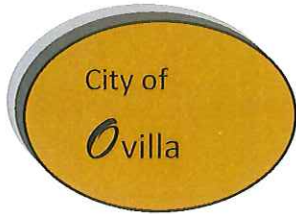
Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE



Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: **1 & 2**

DISCUSSION & ACTION

Meeting Date: April 16, 2018

Attachments:

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

Agenda Item / Topic:

- ITEM 1.** **BOA201718.06 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT filed by Sherrilyn Genovese for a residential variance to construct an accessory building that is not behind the rear plane of the main dwelling on their property located at 101 Oak Forest Lane.
- ITEM 2.** **BOA201718.07 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 OTHER SETBACKS filed by Sherrilyn Genovese for a residential variance to construct an accessory building that is not 100' (feet) from the property line located at 101 Oak Forest Lane.

Discussion / Justification:

APPLICANT: Sherrilyn Genovese
LOCATION: 101 Oak Forest
ZONING: R22 Residential

Applicant's Proposal: (A.) Applicant requests to construct an accessory building not located behind the rear plane of the main dwelling.

Applicant's Proposal: (B.) Applicant requests to construct an accessory building not located 100' (feet) from the property line.

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.

B. Other Setbacks.

An accessory building may not be closer than five (5) feet to the lot line on any side and no closer than one hundred (100') feet to the front line.

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; 11 certified letters mailed. There have been no responses.

N/A

Sample Motion(s):

(Item 1)

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO SHERRILYN GENOVESE AT 101 OAK FOREST LANE, TO CONSTRUCT AN ACCESSORY BUILDING THAT IS NOT BEHIND THE REAR PLANE OF THE MAIN DWELLING ON HER PROPERTY AS PRESENTED IN BOA201718.06."

(Item 2)

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO SHERRILYN GENOVESE AT 101 OAK FOREST LANE, TO CONSTRUCT AN ACCESSORY BUILDING THAT IS CLOSER THAN THE FIVE FEET FROM LOT LINE AND CLOSER THAN ONE HUNDRED FEET TO THE FRONT LINE ON HER PROPERTY AS PRESENTED IN BOA201718.07."

Residential Building Permit Application

Building Permit Number: <u>2018-6107</u>		Valuation: _____	
Project Address: <u>101 Oak Forest Lane, Ovilla, TX 75154</u>		Valuation w/land: _____	
Lot: <u>31</u>	Subdivision: <u>Cumberland Forest</u>		
Project Description:	NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: _____
	PLUMBING/ELECTRICAL <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>
	SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input checked="" type="checkbox"/>	FENCE <input type="checkbox"/>
Proposed Use: <u>Storage</u>			
Description of Work: _____			
Area Square Feet: _____		Covered Porch: _____	Total: _____
Living: _____	Garage: _____	Number of stories: _____	

Name: <u>SHERILYN GENOVESE</u>	Contact Person: <u>SAME</u>
Address: <u>101 OAK FOREST LANE, OVILLA, TX 75154</u>	
Phone Number: <u>469-881-1315</u>	Home Number <u>SAME</u> Mobile Number: <u>214-435-2437</u>

General Contractor	Contact Person <u>WESTON ULRICH</u>	Phone Number <u>817-506-4437</u>	Contractor License Number
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number

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

Signature of Applicant: [Signature] Date: 3/16/18

OFFICE USE ONLY:

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

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

Receipt # _____
 Receipt # _____

Total Fees: _____
 Issued Date: _____
 Expires: 180 Days
 Issued By: _____

*Denied - 2
 Read Plans of Residence
 100' foot from Property Line
 MD*

BOA # 201718.06 *2* .07



Building Permit

City of Ovilla

P.O. BOX 5047, Ovilla, TX 75154
Phone: (972) 617-7262 | Fax: (972) 515-3221

Permit No. 2018-6107

Location: 101 OAK FOREST LN
Description: Accessory Building
Owner: SHERRILYN GENOVESE
Date Issued:

Building Inspector: _____

This Permit To Be Posted In Conspicuous Place On Site



Accessory Building Permit Checklist

DATE 3-16-18

OWNER Genovese

ADDRESS 101 OAK FOREST

1. Permit Signed by property owner ~~Yes~~ No
2. Use of building STORAGE
3. Plot plan with survey stamp ~~Yes~~ No
4. Building Material Brick ~~Stone~~ ~~Hardiplank~~ Wood Other
5. Roof Material Comp
6. Door Facing 90' from front of property ~~Yes~~ No
7. Height no taller than main dwelling or 25' ~~Yes~~ No
8. Location of Building
 - a. 100 ft from front property line ~~Yes~~ No - Variance Required
 - b. 5 feet from side property lines ~~Yes~~ No
 - c. Behind Rear plane of house ~~Yes~~ No - Variance Required
9. Septic tank/aerobic sprinkler spray location ~~Yes~~ No
10. Electricity ~~Yes~~ No
11. Plumbing ~~Yes~~ No
12. Number of buildings on property 1
13. Size of property .808 368
14. Total square footage 336+32 Total square footage allowed 500
15. Variance required Yes No

Approved

Denied

Reason - Location of Building

DATE 3-16-18

NAME Mike Day

BOA # 201718.06 & .07

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.
- B. Other Setbacks. An accessory building may not be closer than five (5) feet to the lot line on any side and no closer than one hundred (100') feet to the front line.



Ordinance 2010.023

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

TO BE EXPLAINED, DETAILED & COMPLETED BY APPLICANT

Condition 1: Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

*Yes, the home is built on a corner lot and
angled between 2 streets; Oak Forest Lane and
Hirdsong Circle, making the yard an odd shape.*

Condition 2: That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

*Yes, our neighbors have out-buildings in
Cumberland Forest.*

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

*We purchased the property on March 5, 2018.
It was built in 1998.*

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.

*We are trying to use land that is basically
not fit for other uses.*

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.

BOA # 201718.06 i .07



*Yes, the structure will be in harmony with
general purpose and our home. It will not be
injurious to our neighbors or neighborhood or detrimental
to public welfare.*

Condition 6: Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Yes, we fully concur.

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.

BOA # 201718.06 & .07



Case No. _____

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. 31

Property Address 101 Oak Forest Lane

Block No. A

Ovilla, TX 75154

Zoning Cumberland Forest Phase II

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

Placement of storage/workshop in front of rear plane of house.

Has a previously appeal been filed on this property?

YES ☒ NO

If YES, when was the previous appeal filed? _____

BOA # 201718.06 i .07



• Case No. _____

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 M/A of _____
(Applicant's agent) (Address)

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

Respectfully submitted:

Applicant's Name SHERILYN GENOVESE
Mailing Address 101 Oak Forest Lane
Ovilla, TX 75154
Telephone (Hm) 469-881-1315
Telephone (Wk) 214-435-2437
Email sherrilyn@verizon.net

[Signature]
Applicant's signature

3/16/18
Date

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

Upchurch



eston Ulrich

1 Sales Consultant

ich Barn Builders

ice 817-506-4437 (Mon-Fri 8am-5pm)

1 682-760-6672 (Text after hours)

20 South Freeway

at Worth, TX 76140

[Google Maps Link](#)

14' WIDE CABIN SHELL

30 YR SHINGLES

7/16" OSB ROOF DECKING

3X5 TRUSS PLATES

2X6 SPF RAFTERS 16" OC

2X8 SYP TOP PLATE

2X4 SPF PLATES

2X4 SPF DOOR HEADER

5/8" PT T1-11 OR

3/8" LOUISIANA PACIFIC

SMART SIDING

4X4 CEDAR POSTS

2X4 SPF STUD 16" OC

DOUBLE STUD EVERY 4'

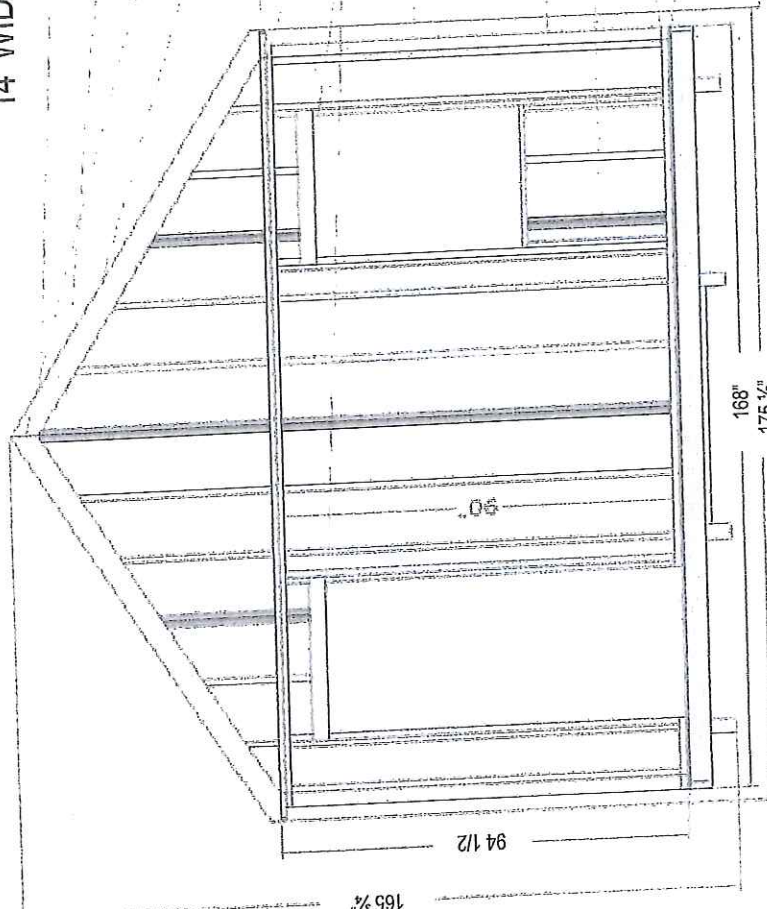
2X4 SPF WALL PLATES

5/8" BC PINE PLYWOOD

2X6 PT SYP FLOOR

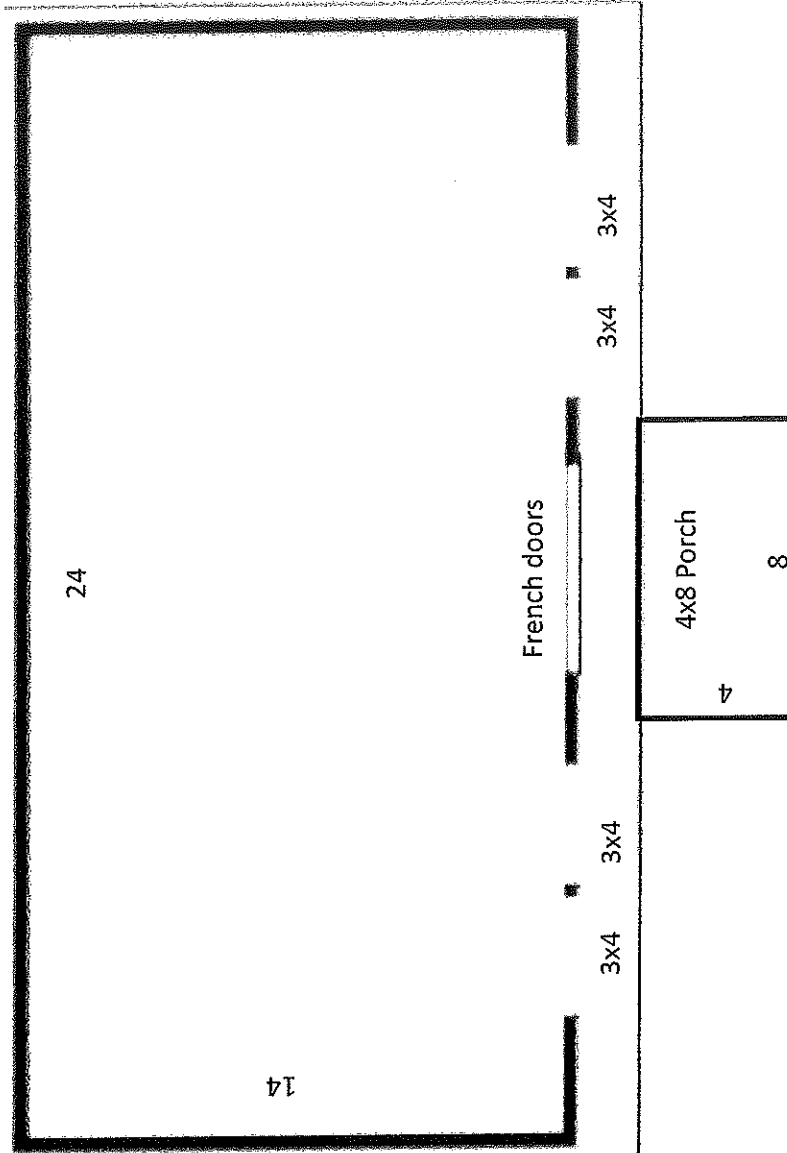
JOISTS 12" OC

4X6 PT SYP SKIDS



BOA # 201718.06 4,107

Ulrich







BOA # 201718.06 é .07



BOA # 201718.06 § .07





City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: SHERRILYN GENOVESE **Case Number:** BOA201718.06
Address: 101 OAK FOREST LANE

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14 Section 30.3 PLACEMENT; **(A) FRONT SETBACK** 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:

	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

Date



City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: SHERRILYN GENOVESE
Address: 101 OAK FOREST LANE

Case Number: BOA201718.07

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14 Section 30.3 PLACEMENT; **(B) OTHER SETBACKS** 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:

	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

Date



Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 3

DISCUSSION & ACTION

Meeting Date: April 16, 2018

Attachments:

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

Agenda Item / Topic:

ITEM 3. BOA201718.08 - Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 **FENCES IN RESIDENTIAL DISTRICTS** filed by Jeff Thompson for a residential special exception to construct a fence to the building line on his property located at 140 Water Street..

Discussion / Justification:

APPLICANT: Jeff Thompson
LOCATION: 140 Water Street.
ZONING: RE Residential

Applicant's Proposal: Applicant requests to construct a fence to the building 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 The Red Oak Record; 8 certified letters mailed. There has been no response.

Recommendation / Staff Comments:

N/A

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO JEFF THOMPSON AT 140 WATER STREET, TO CONSTRUCT A FENCE TO THE BUILDING LINE ON HIS PROPERTY AS PRESENTED IN BOA201718.08."

Residential Building Permit Application

Building Permit Number: <u>5520</u>		Valuation: _____	
		Valuation w/land: _____	
Project Address: _____			
Lot: _____		Subdivision: _____	
Project Description: NEW SFR <input type="checkbox"/> SFR REMODEL/ADDITION <input type="checkbox"/> SPECIFY OTHER: _____ PLUMBING/ELECTRICAL <input type="checkbox"/> FLATWORK <input type="checkbox"/> SPRINKLER <input type="checkbox"/> SWIMMING POOL <input type="checkbox"/> ACCESSORY BUILDING <input type="checkbox"/> FENCE <input checked="" type="checkbox"/>			
Proposed Use: <u>THE POSTS WILL BE SET 27" DEEP WITH NO CONCRETE, ONLY SOIL & PEA GRAVEL</u>			
Description of Work: <u>CEDAR SPLIT RAIL FENCE ON FRONT OF PROPERTY 16' FROM NW CORNER OF LOT TO EDGE OF ROAD 12' FROM NE ROAD</u>			
Area Square Feet: _____		Covered Porch: _____	
Living: _____	Garage: _____	Total: _____	Number of stories: _____

Homeowner's name: <u>JEFF + ERICA THOMPSON</u>	
Address: <u>146 WATER ST</u>	
Phone Number: <u>469-309-9603</u>	Home Number: _____ Mobile Number: _____

General Contractor	Contact Person	Phone Number	Contractor License Number
<u>JEFF THOMPSON</u> <u>HOME OWNER</u>			<u>N/A</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: [Signature] Date: 4/13/17

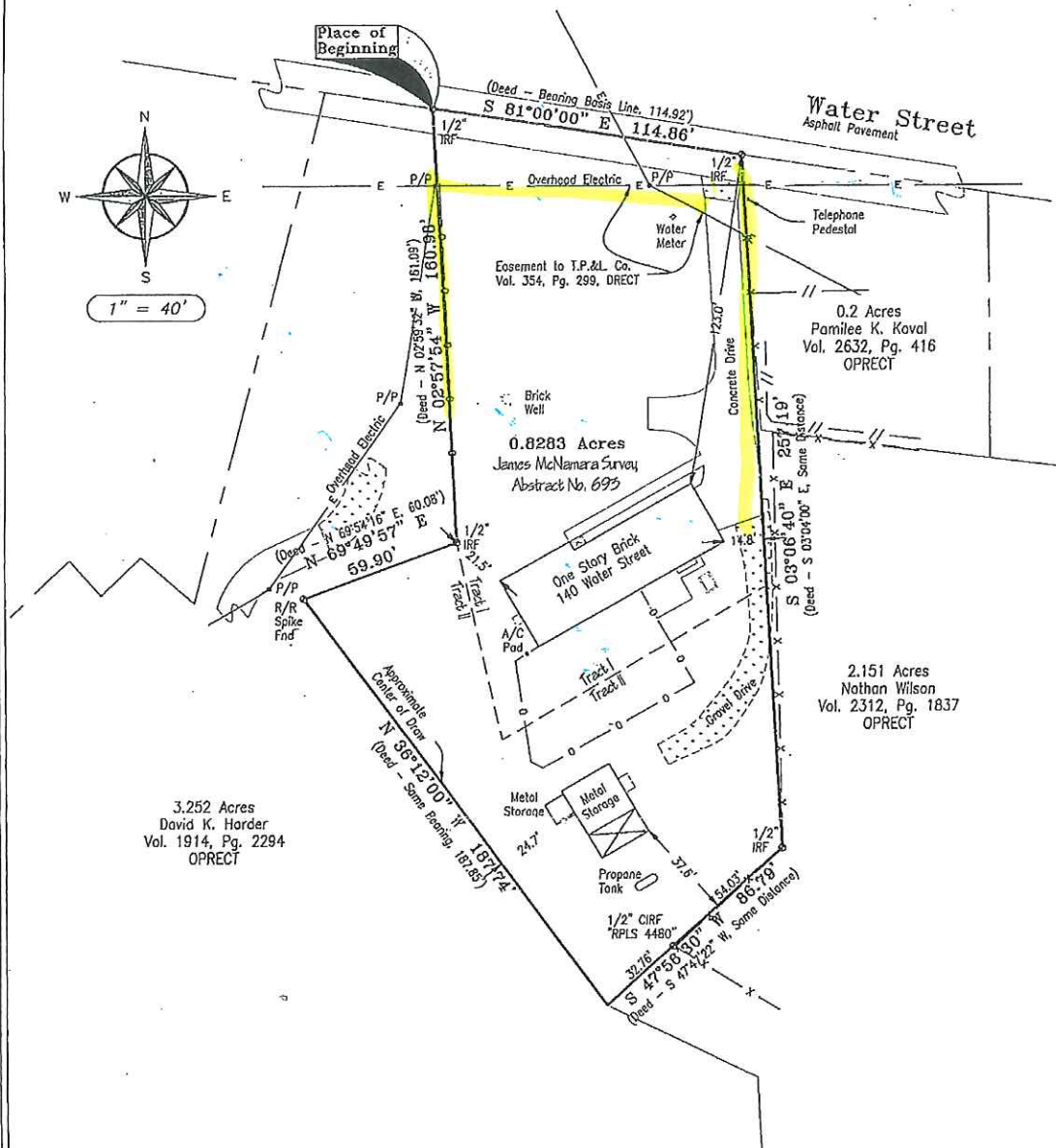
OFFICE USE ONLY:

Approved by: _____	
City Manager: _____	

BOA 201718.08

Plan Review Fee: _____	Receipt # _____	Total Fees: _____
Building Permit Fee: _____	<u>SPECIAL EXCEPT - REQUIRED</u> <u>in front of Building</u> <u>Link.</u> <u>mon</u>	Issued Date: _____
Park Impact Fee: _____		Expires: <u>180 Days</u>
Capital Recovery Fee: _____		Issued By: _____
Fire Meter: _____		
Water Meter Cost: _____		BV Project # _____
Water Impact: _____		
Sewer Connection Fee: _____		
Sewer Impact: _____		

Walker Land Surveying Company
P.O. Box 2911 Waxahachie, Texas 75168
Phone: (972) 938-8693 Fax: (972) 938-8695



This is to certify that I have, on this date, made a true and correct on the ground survey of the subject property. The plot hereon is an accurate representation of the boundary and area as determined by survey. The size, location, and type of buildings and improvements are as shown. Any visible utilities and easements are located as shown. I do not warrant that those shown comprise all such utilities in the area, whether in service or abandoned. I further certify that no portion of the subject property is located in a Special Flood Hazard Boundary according to the Flood Insurance Rate Map for Ellis County, Texas. Map # 48139C0050F, Zone X. This survey plot was prepared for title purposes in conjunction with Ellis County Abstract & Title Company. Title Insurance GF# 1501007M. The easements, right-of-ways, and other exceptions shown are according to the Schedule B provided. The surveyor has not abstracted the property. This survey substantially complies with the Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Condition 3 Survey. This survey was completed exclusively for the above named parties in the original transaction only. It was completed for single use only and no license is granted for any other use without the express written consent of Walker Land Surveying Company. This survey plot contains material protected by United States copyright law and international treaties. Copyright ©2015 Walker Land Surveying Company. All rights reserved. All original copies are multi-colored and marked with the Surveyor's embossed seal. Only these copies may be considered true and correct copies. Any copies not multi-colored and marked with the embossed seal are illegal copies and render this certification null and void.

LEGEND	
⊙	- Property Corner
IP	- Iron Pipe
IR	- Iron Rod
Fnd	- Found
P/P	- Power Pole

Prepared For: Jeff & Eric Thompson
G#: 1501007M
Date: February 3, 2015
Scale: 1"=40'
Project: 150008
TBPLS Firm No. 10112400
Copyright ©2015 Walker Land Surveying Company.
All rights reserved.

J. Shawne Walker, R.P.L.S.
Texas Registration #5331

FENCE Permit CheckList.txt

FENCE PERMIT REQUEST

DATE - 3-23-18

NAME - Thompson

ADDRESS - 140 Water

FENCE PERMIT REQUIREMENTS

FORM FILLED OUT-SIGNED ☒ Y...N

PLOT PLAN W STAMP ☒ Y... N

PICKETS FACING OUT NOTED ☒ Y... N - Dec

HEIGHT 6 FT Max ☒ Y... N

UTILITY EASEMENTS NOTED ☒ Y... N

RIGHT OF WAY ☒ Y... N

BUILDING LINE NOTED ☒ Y...N - in front

CROSS SECTION IMAGE Y... N -

BREAK AWAY PANEL ACCESS Y... ☒ N

FENCE MATERIAL - ☒ WOOD, METAL, .. OTHER -

Poles - metal Y - N

Board of Adjustment Variance Required Y....N

APPROVED

☒ DENIED - REASON

Building line

DATE

SIGNED

3-23-18

M. Dwyer

35.3

Fences in Residential District

D. I. special exception Required.

CHAPTER 14

ZONING

35.3 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

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: _____

BOA 201718.08

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. James McNameara Property Address 140 WATER ST

Block No. Abstract No. 693 OVILLA, TX 75154

Property Zoned RE .8283 acres

OWNER OF PROPERTY Jeff Thompson

APPLICANT Jeff Thompson

SPECIAL EXCEPTION _____



BOA 201718.08

I have completed the following requirements:

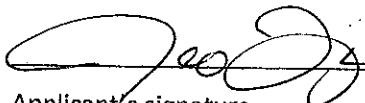
1. Paid the filing fee of \$200.00 (checks made payable to "City of Ovilla")
2. Submitted a scaled plot plan
3. Completed all sections of the application

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 JEFF THOMPSON
Mailing Address 140 WATER ST.
OVILLA, TX 75154
Telephone (Hm) 409-329-9603
Telephone (Wk) same
Email indoc0728@yahoo.com


Applicant's signature

3/23/18
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: _____	

BOA 201718.08

The Applicant/Owner, Jeff Thompson, of Evis County, requests that the Ovilla Board of Adjustment grant the following **SPECIAL EXCEPTION** to Article _____, Chapter 36.3, Section D.1 of the Ovilla Zoning Ordinance. Please state in detail what type of **SPECIAL EXCEPTION** you are seeking, attach additional sheets if necessary.

I am seeking a special exception to permit the installation of a split rail cedar fence in front of the current building line at my residence at 140 Water St.

Has a previous appeal been filed on this property?

YES / NO

If YES, when was the previous appeal filed? _____



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, this fence is allowed under the current ordinances.

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 locations of the fence are drawn on the provided property survey.

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

Yes, this fence will be built only on my property.

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.





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

Applicant: JEFF THOMPSON
Address: 140 WATER STREET

Case Number: BOA201718.08

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

TOTALS:

—
—
—

**FOR
AGAINST
ABSTAIN**

The special exception is hereby:
_____ **granted**

_____ **denied**

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE



Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 4

DISCUSSION & ACTION

Meeting Date: April 16, 2018

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	