

*Chair Carol Richtsmeier, PL1
Ozzie Molina, PL2
Barbara Betik, PL3
Stephanie Heimbuch, PL4*

City of Ovilla

*Vice Chair, Richard Ware, Jr. PL5
ALT- Patricia Halyard - King, PL6
ALT- Vacant, PL7
Mike Dooly, Code Enforcement*

AGENDA

Board of Adjustment Meeting
105 S. Cockrell Hill Road, Ovilla, Texas 75154
November 19, 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, November 19, 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

None

Consent Items

◆ Minutes of the September 17, 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. **BOA201819.01 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Joel Evans for a residential special exception to construct a fence on or beyond the building line which is not allowed per Ordinance, on his property at 918 Red Oak Creek Rd.

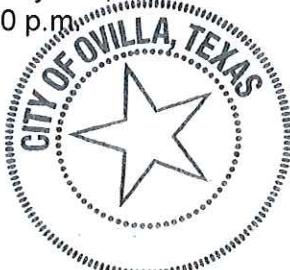
DISCUSSION/ACTION – Consideration of requested *Special Exception* filed by Joel Evans.

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

Adjournment

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **November 19, 2018 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 16th day of November 2018, prior to 6:00 p.m.

Glennell Miller
Deputy City Secretary



DATE OF POSTING: Nov. 16, 2018 **TIME:** 2:00 am/pm
DATE TAKEN DOWN: _____ **TIME:** _____ am/pm

CITY OF OVILLA MINUTES
Monday, September 17, 2018
Board of Adjustment Meeting

Chair Carol Richtsmeier called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:01 p.m. with the following BOA members present, thus constituting a quorum:

Carol Richtsmeier	Board Member
Richard Ware	Board Member
Ozzie Molina	Board Member
Stephanie Heimbuch	Board Member
Patricia Halyard-King	Board Member (Alt.)

City Manager John Dean & Code Enforcement Officer Mike Dooly were present.
At this time Chair Richtsmeier asked Vice Chair Ware to call roll of present members, thus declaring a quorum.
PL3 Barbara Betik was noted absent.

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

COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS

Statement of Appointed Officer & Oath of Office was conducted for member Stephanie Heimbuch from Alternate Board Member to Board Member

CONSENT ITEMS

- Minutes of the August 20, 2018 & July 16, 2018 BOA Meeting
- FY 2018 – 2019 Calendar of Board of Adjustment Meetings

PL4 Heimbuch made the motion that the BOA approve the consent items as presented.
PL2 Molina seconded the motion.

VOTE: The motion carried 4-0

Individual Consideration
&
PUBLIC HEARING

ITEM 1. **BOA201718.20 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.3 PLACEMENT filed by Hamid El Mounla for a residential variance to construct an accessory building which is not located behind the rear plane of the main dwelling per Ordinance, on his property at 405 Bluff Creek.

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

Code Enforcement Officer Mike Dooly shared with the Board a brief explanation on the applicant's request. The building is beside the rear of the residence. He stated that the property has a utility/power easement that limits placement of any building and an overhead line as well.

(Testimony that followed was under proper oath; Applicant)

CITY OF OVILLA MINUTES
Monday, September 17, 2018
Board of Adjustment Meeting

Applicant, Mr. El Mounla reiterated the limit of space, and has future plans for a pool, so he is trying to utilize any space there on his property.

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

Jarod Anderson – 204 White Rock Court – in support

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

None

(Rebuttal or Final Comments:)

n/a

The Public Hearing was closed at 7:19 p.m.

INDIVIDUAL CONSIDERATION

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Hamid El Mounla.

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

PL4 Heimbuch moved that the BOA APPROVE the request for Hamid El Mounla for a special exception to construct an accessory building as requested BOA 201718.20.

PL Molina seconded the motion.

Record vote was called:

Record Vote:

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

VOTE: The motion to APPROVE carried 4-0.

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

CITY OF OVILLA MINUTES
Monday, September 17, 2018
Board of Adjustment Meeting

Adjournment There being no further business, Chair Richtsmeier adjourned the meeting at 7:21 p.m.

Carol Richtsmeier, Chair

ATTEST:

Glennell Miller, Board Secretary

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

Approved on November 19, 2018

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

Applicant: HAMID EL MOUNLA
Address: 450 BLUFF CREEK.

Case Number: 201718.20

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
Member Carol Richtsmeier	AYE		
Member Richard Ware	AYE		
Member Barbara Betik	ABSENT		
Member Ozzie Molina	AYE		
Member Stephanie Heimbuch	AYE		
Alt. Member Patricia Halyard-King	-		

TOTALS:

4 FOR
0 AGAINST
0 ABSTAIN

The variance is hereby: ✓ granted denied

Presiding Officer of BOA

Date

Miller
City or Board Secretary

11/19/2018
Date

Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 1

DISCUSSION & ACTION

Meeting Date: November 19, 2018

Attachments:

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

Agenda Item / Topic:

ITEM I. **BOA201819.01- Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 **FENCES IN RESIDENTIAL DISTRICTS** filed by Joel Evans for a residential special exception to construct a fence on or beyond the property's building line which is not allowed per Ordinance, on his property at 918 Red Oak Creek Road.

Discussion / Justification:

APPLICANT: Joel Evans
LOCATION: 918 Red Oak Creek Road
ZONING: RE Residential

Applicant's Proposal: Applicant requests to construct a fence beyond the front building line.

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

C. Setbacks. No screening element or fence shall be erected, placed or planted beyond the front or side building line of any permitted building in a residential district, either on a corner lot or interior lot.

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 Waxahachie Daily Light; 15 certified letters mailed. There have been 1 response, in favor.

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO JOEL EVANS AT 918 RED OAK CREEK ROAD TO CONSTRUCT A FENCE THAT IS ON OR BEYOND THE BUILDING LINE AS PRESENTED IN BOA201819.01."

City of Ovilla

Phone: (972) 617-7262

Fax: (972) 515-3221

105 S. Cockrell Hill Rd.

Ovilla, Texas 75154

Residential Building Permit Application

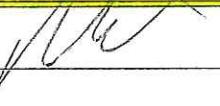
Building Permit Number:	2018-0272	Valuation:	14,000
Zoning:	Valuation w/land:		
Project Address:	918 RED OAK CREEK DR		
Lot:	Subdivision:		
Project Description:	NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: <input type="checkbox"/>
	PLUMBING/ELECTRICAL <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:	FENCE		
Description of Work:	4ft wrought Iron		
Area Square Feet:	Covered	Porch:	Total: Number of stories:
Living:	Garage:		

Homeowner's name:	Joel Evans
Address:	918 Red Oak Creek DR.
Contact Number:	254 760 6992
Email	

General Contractor	Contact Person	Phone Number	Contractor License Number
Philip's Fences	PLEN BYRD	817 689 4542	
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: 10-5-2018

OFFICE USE ONLY:

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

Plan Review Fee: _____

Receipt # _____

Building Permit Fee: _____

Total Fees:

Issue Date:

Park Impact Fee: _____

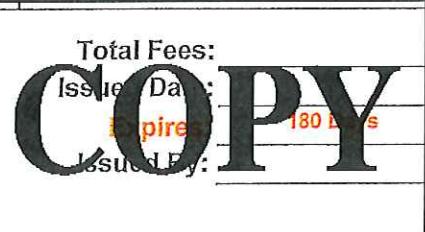
Expires:

180 days

Capital Recovery Fee: _____

Issued By:

Fire Meter: _____



Water Meter Cost: _____

BV Project #: _____

Water Impact: _____

Sewer Connection Fee: _____

Sewer Impact: _____



Residential Building Permit Application

City of Ovilla

105 S. Cockrell Hill Rd., Ovilla, TX 75154
Phone: (972) 617-7262 | Fax: (972) 515-3221

Building Permit #	2018-6272	Valuation:	\$14,000.00
Zoning:		Valuation w/	\$0.00
Project Address:	918 RED OAK CREEK DR	Land:	
Lot:	Block:	Subdivision:	
<u>Project Description:</u>			
New SFR		Flatwork	
Plumbing/Electrical		Accessory Building	
Swimming Pool		Sprinkler	
SFR Remodel/Addition		Fence	
Other		Specify Other:	
Proposed Use:	FENCE		
Description of Work:	FENCE		
<u>Area Square Feet:</u>			
Living:		Garage:	Covered Porch:
Total:	0.00		
# of Stories:			

Homeowner Details

Name: PAUL B & CARMEN I HARRELSON
Address: 918 RED OAK CREEK DR, OVILLA, TX 75154
Phone # Email:

Applicant Details

Applicant Type:
Name:
Address: ,
Phone # Email:

COPY

General Contractor Details**License #****Name:** GLEN BYRD**Phone #** (817) 689-4542 **Email:****Mechanical Contractor Details****License #****Name:****Phone #** **Email:****Electrical Contractor Details****License #****Name:****Phone #** **Email:****Plumber/Irrigator Details:****License #****Name:****Phone #** **Email:**

Applicant's Signature***Office Use Only:***

Approved By :		Date approved:	
City Manager:		Date Approved:	

Plan Review Fee: \$0.00

Total Fees: \$25.00

Building Permit Fee: \$25.00

Issued Date:

Park Impact Fee: \$0.00

Expiry Date:

Capital Recovery Fee: \$0.00

Issued By:

Fire Meter: \$0.00

BV Project #

Water Meter Cost: \$0.00

Water Impact: \$0.00

Sewer Connection Fee: \$0.00

Sewer Impact: \$0.00

COPY



Building Permit

City of Ovilla

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

Permit No. 2018-6272

Location: 918 RED OAK CREEK DR

Description: FENCE

Owner: PAUL B & CARMEN I HARRELSON

Date Issued:

Building Inspector: _____

This Permit To Be Posted In Conspicuous Place On Site

COPY



COPY



Checklist

DATE 10-11-18

OWNER EVAns, Joe

ADDRESS 918 Red OAK Creek

1. Permit Signed by property owner
2. Plot plan with survey stamp
3. Pickets facing out noted
4. Height 6 ft max
5. Utility easements noted
6. Right of Way
7. Building Line noted
8. Cross section image
9. Break away panel access
10. Fence Material

<input checked="" type="radio"/> Yes	No
Wood	Metal
	Other _____

Board of Adjustment Variance Required

Yes No

Approved

Denied

Reason Location - in Front Building Line

DATE 10-11-18

NAME Mike Dooley

COPY

BOA#201819.01



Special Exception Required

DATE 10/11/2018

OWNER Evans, Joel

ADDRESS 918 Red Oak Creek Road

Special Exception Required for fence Permit #2018-6272

Location of Fence

35.3 FENCES IN RESIDENTIAL DISTRICTS

A. Maximum Height. Screening elements and fences shall be restricted to a maximum height of eight feet (8'), measured from the adjacent grade line, except as otherwise permitted in this section. Fences may be permitted to be constructed to a height exceeding eight feet (8') by special exception as approved by the Zoning Board of Adjustment.

B. Trash Storage Areas. Garbage, refuse and trash collection and storage areas in any multifamily development, mobile home development or other nonresidential use permitted in a residential district shall be fully enclosed on three sides by a dense screening element to adequately screen such area from view of the surrounding area.

C. Setbacks. No screening element or fence shall be erected, placed or planted beyond the front or side building line of any permitted building in a residential district, either on a corner lot or interior lot.

D. Support and Rails.

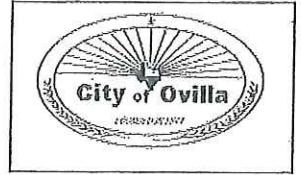
1. Fences may be constructed to the property line upon approval of a special exception by the Zoning Board of Adjustment. Fencing located on or behind the building line shall not exceed eight feet (8') in height.

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.

COPY

BoA 201819.01

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.

COPY

Case No.

BoA 201819.01

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 Joel Evans of 918 Red Oak Creek Rd.
(Applicant's agent) (Address)

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

Respectfully submitted:

Applicant/Owner Name Joel Evans

Mailing Address 918 Red Oak Creek Rd.

Ovilla, TX 75154

Telephone (Hm) 254-760-6992

Telephone (Wk) _____

Email joel@dakotahardwoods.com

Joel Evans

Applicant's signature

Date

10/11/18

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

OFFICE USE ONLY

DATE RECEIVED: 10-18-18 HEARING DATE: NOV. 19, 2018

APPROVED: _____ DENIED: _____

BOA CHAIRMAN SIGNATURE: _____

COPY

DATE: 10.11.18

Case No. BOA 201819.D1

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. 3

Property Address 918 Red Oak Creek Rd.

Block No.

Ovilla, TX 75154

Property Zoned Residential

OWNER OF PROPERTY Joel Evans

APPLICANT Joel Evans

SPECIAL EXCEPTION Location of Fence



COPY

Case No. BOA 201819.01

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

Request that Fence to be placed 24 ft from the center of Red Oak Creek Rd. into the property

The install will be 4 ft inside the property line

Fence Style: 4 ft. tall wrought iron

Has a previous appeal been filed on this property?

YES / NO

If YES, when was the previous appeal filed? _____



COPY

Case No. BoA 201819.D1

CONDITIONS NECESSARY FOR GRANTING A SPECIAL EXCEPTION

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

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

Yes

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

Yes

CONDITION 3: Requires that the **SPECIAL EXCEPTION** will be wholly compatible with the 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.*



COPY



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

Applicant: JOEL EVANS

Case Number: BOA201819.01

Address: 918 RED OAK CREEK RD.

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			
Stephanie Heimbuch			
Member Barbara Betik			
Member Ozzie Molina			
Alt. Member Patricia Halyard-King			

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: November 19, 2018

Attachments:	
None	
Agenda Item / Topic:	
ITEM 2.	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	