

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

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

City of Ovilla

AGENDA

Board of Adjustment Meeting
105 S. Cockrell Hill Road, Ovilla, Texas 75154
January 22, 2019

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 **Tuesday, January 22, 2019 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

Oath & Statement of Office for New Zoning Board of Adjustment Member
Mark Clark, PL7 Alternate

Minutes November 19, 2018 Meeting Date

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. **BOA201819.03 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.5 **CONSTRUCTION MATERIAL** filed by Charles Wickersham for a residential variance to construct a METAL accessory building on less than the 2 acres of land that is allowed per Ordinance, on his property at 307 Cockrell Hill Rd.

DISCUSSION/ACTION – Consideration of requested **Variance** filed by Charles Wickersham.

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 **January 22, 2019 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 18th day of January 2019, prior to 6:00 p.m.

Glennell Miller
Glennell Miller
Deputy City Secretary

DATE OF POSTING:
DATE TAKEN DOWN:

Jan. 18, 2019 TIME: *9:00* *9:00*
TIME: *am/pm* *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, November 19, 2018
Board of Adjustment Meeting

Chair Carol Richtsmeier called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:03 p.m. with the following BOA members present, thus constituting a quorum:

Carol Richtsmeier	Board Member
Ozzie Molina	Board Member
Stephanie Heimbuch	Board Member
Barbara Betik	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 PL3, Barbara Betik to call roll of present members, thus declaring a quorum.
Vice Chair Richard Ware 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
None

CONSENT ITEMS
Minutes of the September 17, 2018 BOA Meeting

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

VOTE: The motion carried 4-0

At this time, Chair Richtsmeier recused herself from the Public Hearing and Individual Consideration of Item 1 – due to being a recipient of the Letter of Notice for this property. Place 3 Barbara Betik acts as Chair.

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.

PL3 Betik read aloud the captioned request and opened the Public Hearing at 7:07 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 behalf. The applicant originally requested a permit for the fence to be built inside the property line, but then changed his mind due to not having enough yard for his children to play in safely. The applicant has lost a

CITY OF OVILLA MINUTES
Monday, November 19, 2018
Board of Adjustment Meeting

lot of his yard to the utility easement, and additional yard to a 20 foot drop for the creek that runs behind the homes, therefore needed to make up the space by placing the fence further out. The yard is very close to the road and they want the fence for added safety.

(Testimony that followed was under proper oath; Applicant)

The applicant was not in attendance

(PL3 Betik asked that those speaking in support of the request to please step to the podium:)

None

(PL3 Betik 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 7:15 p.m.

INDIVIDUAL CONSIDERATION

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

PL4 Heimbuch 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 Joel Evans for a special exception to construct an a fence to or beyond the building line as requested in BOA 201819.01.

PL2 Molina seconded the motion.

Record vote was called:

Record Vote:

RICHTSMEIER	<u>RECUSED</u>
MOLINA	<u>AYE</u>
HEIMBUCH	<u>AYE</u>
BETIK	<u>AYE</u>
HALYARD-KING	<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 O'VILLA MINUTES
Monday, November 19, 2018
Board of Adjustment Meeting

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

Chair Carol Richtsmeier

ATTEST:

Glennell Miller, Board Secretary

Attachment(s): *Findings-of-Fact (1)*
Affidavit – Chair of BOA

Approved on January 22, 2019



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

Applicant: JOEL EVANS
Address: 918 RED OAK CREEK RD.

Case Number: BOA201819.01

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	RECUSED			
Vice Chair Richard Ware	ABSENT			
Stephanie Heimbuch	AYE			
Member Barbara Betik	AYE			
Member Ozzie Molina	AYE			
Alt. Member Patricia Halyard-King	AYE			

TOTALS:

4 FOR
0 AGAINST
0 ABSTAIN

The special exception is hereby:

✓ granted _____ denied

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE



AFFIDAVIT

STATE OF Texas)

)

COUNTY OF Ellis)

That on this 19 day of Nov, 2018, CAROL RICHTSMAYER personally came and appeared before me at o'clock AM/PM Ovilla Municipal Building, of Ovilla, Texas, known to me, who says:

Per the Local Government Code, Section 171, I am filing this affidavit stating that I shall abstain from voting and participating in the Zoning Board of Adjustment matter of 918 RED OAK CREEK ROAD

SPECIAL EXCEPTION

The nature and extent of my interest in this matter is _____

I am a recipient by letter from the City of Ovilla of notified individuals living near the property for discussion and consideration.

FURTHER AFFIANT SAYETH NOT.

Carol Richtsmeyer

(Signature)

PRINTED NAME: CAROL RICHTSMAYER

PRESENTED AND FILED with me on this 19 day of November, 2018.

Amber Muller
Deputy City Secretary

Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 1

DISCUSSION & ACTION Meeting Date: January 22, 2019

Attachments:	
1. Permit Application	
2. Variance application with attachments	
3. Findings of Fact	
Agenda Item / Topic:	
ITEM 1. BOA201819.03- Public Hearing and Discussion of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.5 CONSTRUCTION MATERIAL filed by Charles Wickersham for a residential variance to construct a metal accessory building on less than the 2 acres of land which is allowed per Ordinance, on his property at 307 Cockrell Hill Rd.	
Discussion / Justification:	
APPLICANT:	Charles Wickersham
LOCATION:	307 Cockrell Hill Road
ZONING:	RE Residential
Applicant's Proposal: Applicant requests to construct a metal accessory building on 1.641 acres.	
Discussion: The Ovilla Code of Ordinances, Chapter 14, Section 30.5, CONSTRUCTION MATERIAL, states:	
C. Metal. An accessory building may be constructed of commercial grade metal 'r' or 'u' panels (minimum 26 gauge) if the lot size on which the building is constructed is two (2) acres or greater.	
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 Waxahachie Daily Light; 18 certified letters mailed. There have been no response.	
Sample Motion(s):	
"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO CHARLES WICKERSHAM AT 307 COCKRELL HILL ROAD TO CONSTRUCT A METAL ACCESSORY BUILDINGON ON LESS THAN THE 2 ACRE MINIMUM LOT SIZE THAT IS ALLOWED, AS PRESENTED IN IN BOA201819.03."	

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:				Valuation: 17 000
Zoning: RE				Valuation w/land:
Project Address: 307 Cockrell Hill Rd, Ovilla, Tx				
Lot: 7R	Block 3	Subdivision: WoodLawn Acres		
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:				
Description of Work:				
Area Square Feet:	Covered	Porch:	Total:	Number of stories:
Living: _____	Garage: _____	_____	_____	_____

Homeowner's name: Charles Wickersham	
Address: 307 Cockrell Hill Rd Ovilla TX 75154	
Contact Number: 214-498-8059	Email: cwicks9@yahoo.com

General Contractor	Contact Person	Phone Number	Contractor License Number
Mechanical Contractor			Contractor License Number
Electrical Contractor			Contractor License Number
Plumber/Irrigator			Contractor License Number

APPROVED/DENIED
SPECIAL EXCEPTION/VARIANCE
 BOA CASE #: 201819.03
 DATE: JANUARY 22, 2019
 (RESCHEDULED)

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.

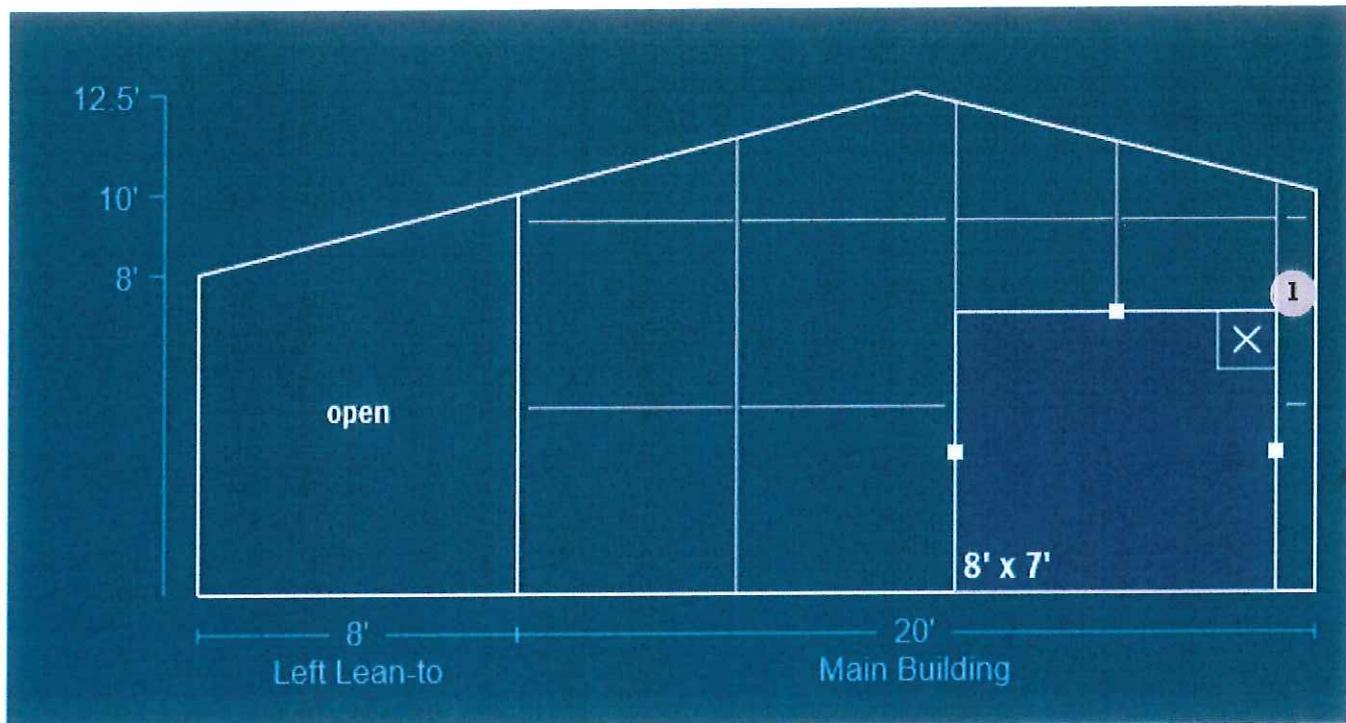
Signature of Applicant:  Date: 15 Nov 2018

OFFICE USE ONLY:

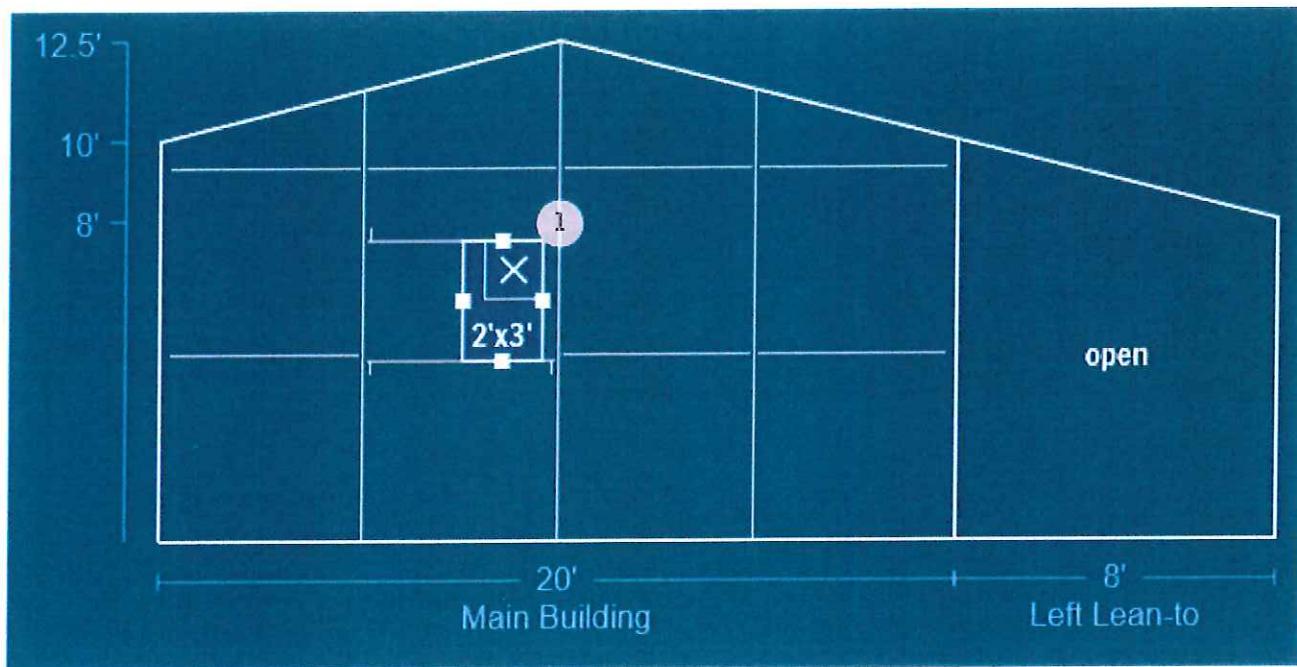
Approved by:		Date approved:	
City Manager:		Date approved:	

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

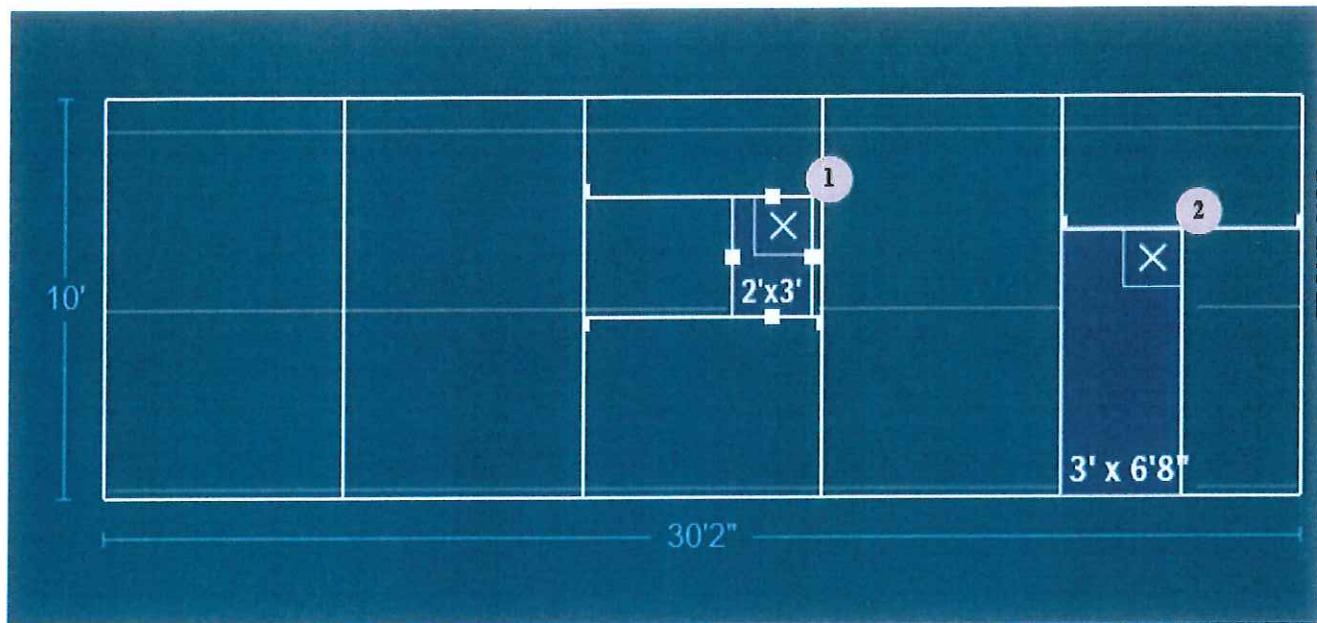
FRONT - NORTH (Towards Greenwood)



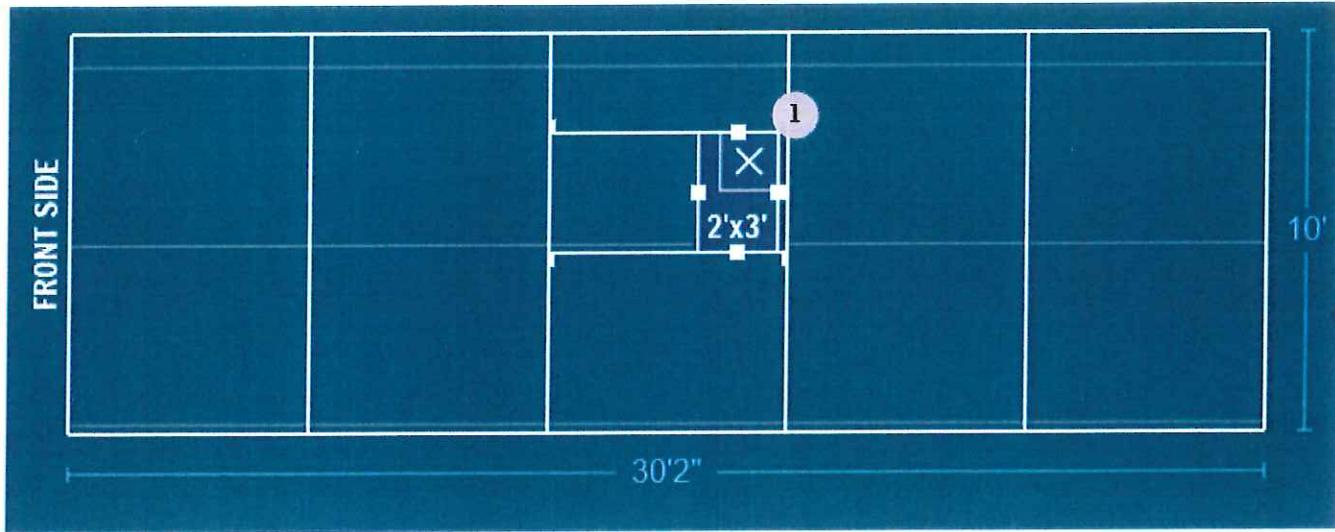
REAR - SOUTH



LEFT – EAST (Facing rear of home/fence)



RIGHT – WEST (Facing rear of property)



Colors (Stone walls / tan trim)



WICKERSHAM Proposal

20' X 30' plus 8' carport

Width: 20' Length: 30' Height (Sidewall): 10'

ADD LEAN-TO(s)?

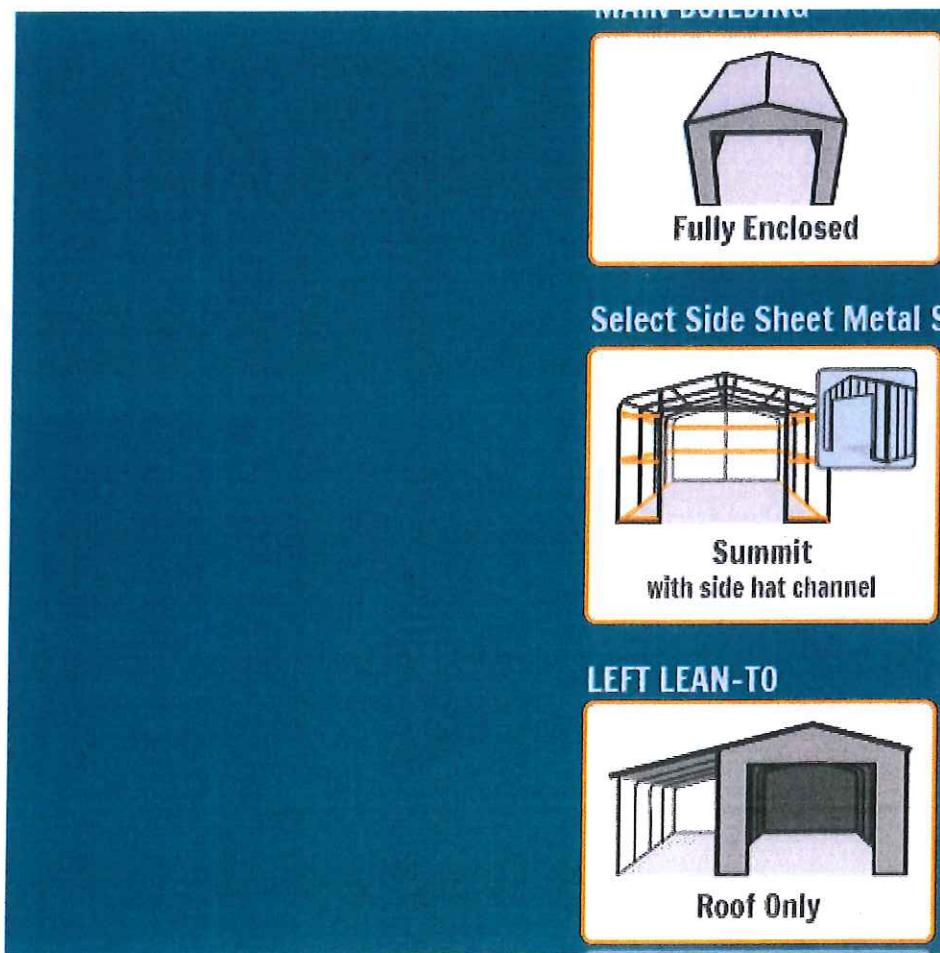
Left Side Right Side

House ←

Width: 8' (+\$1332)

SELECT STYLE

 Continuous Slope



2 Buildings to be Removed in Red

Wood Dr

Greenwood Dr

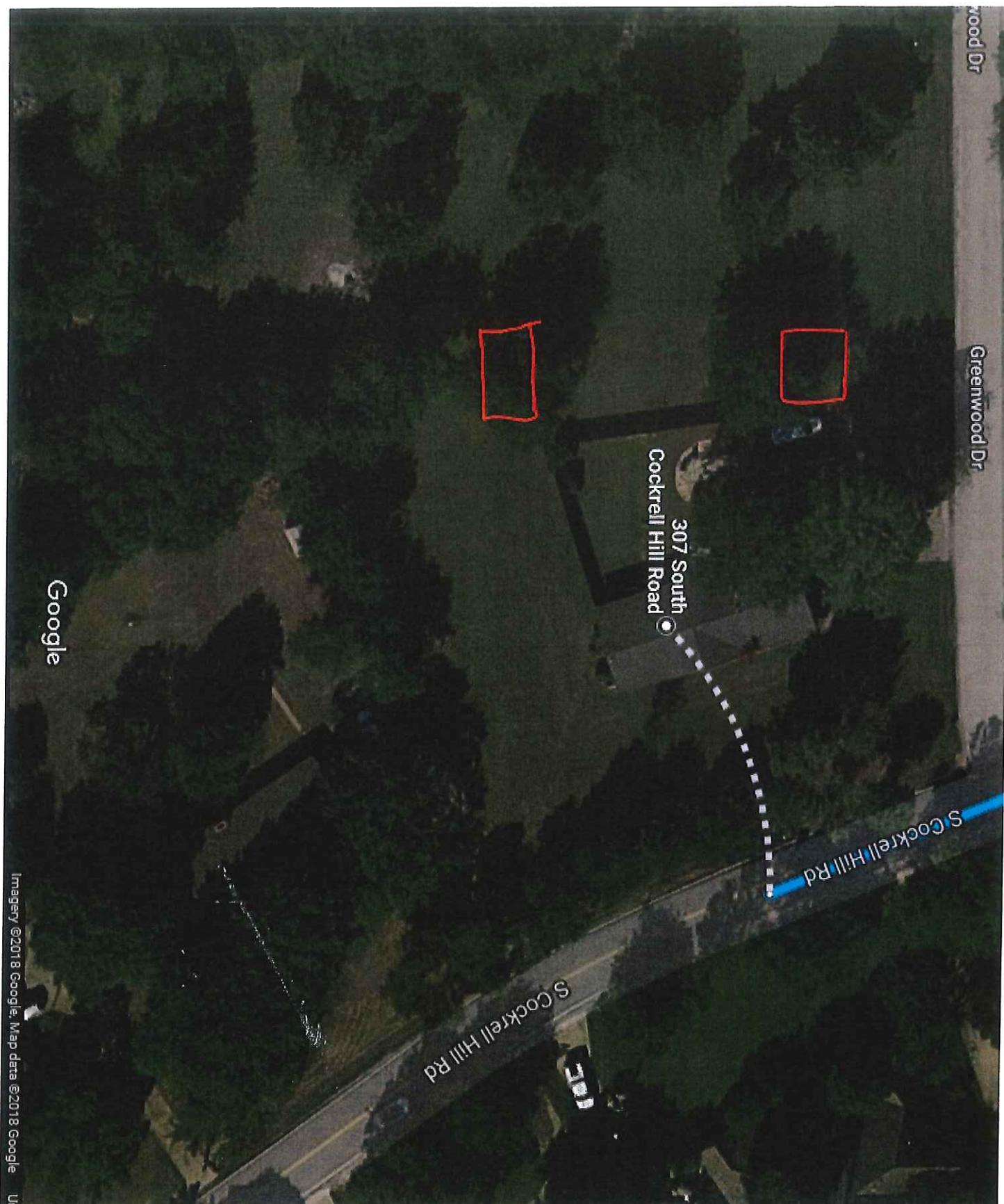
16x10

10x20

—

360⁵

Google





COPY

Accessory Building Permit Checklist

DATE 11-15-18

OWNER Charles Wickensham

ADDRESS 307

1. Permit Signed by property owner Yes No
2. Use of building storage Yes No
3. Plot plan with survey stamp Yes No
4. Building Material Brick Stone Hardiplank Wood Other
5. Roof Material Metal Yes No
6. Door Facing 90' from front of property Yes No
7. Height no taller than main dwelling or 25' Yes No 12'
8. Location of Building
 - a. 100 ft from front property line Yes No
 - b. 5 feet from side property lines Yes No
 - c. Behind Rear plane of house Yes No
9. Septic tank/aerobic sprinkler spray location Yes No
10. Electricity Yes No No
11. Plumbing Yes No No
12. Number of buildings on property 1+1
13. Size of property 1.641 acn
14. Total square footage 1160 Total square footage allowed 1200 sq ft
15. Variance required Yes No

Approved Denied Reason Metal Building on 1.641 acn

DATE 11-15-18

NAME Mike Dotz

CHAPTER 14

ZONING

30.5 CONSTRUCTION MATERIAL

C. Metal. An accessory building may be constructed of commercial grade metal 'r' or 'u' panels (minimum 26 gauge) if the lot size on which the building is constructed is two (2) acres or greater.



INSTRUCTIONS FOR COMPLETING THE REQUEST FOR ZONING VARIANCE TO THE OVILLA BOARD OF ADJUSTMENT

Definition of Variance from the Ovilla Code of Ordinances adopted by Ordinance 2010.023

A variance is a relaxation by the Board of Adjustment of the dimensional regulations of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the situation of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

Variance. To authorized upon appeal in specific cases such variance from the height, yard area, coverage, and parking regulations set forth in this ordinance as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that is cannot be appropriately developed without such modifications.

This instruction page is provided for your information and assistance in filling out this variance request. It is not to be considered legal advice. City employees are not permitted to give legal advice in this matter.

Evidence of each of the following conditions must be found to exist by the Board of Adjustment in order for a variance request to be granted. They are:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; and
2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
3. That the special conditions and circumstances do not result from the action of the applicant;
4. The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Case No. BOA 201819.DZ .03

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.

This was originally two plats. The plat with the house was approved at less than one acre. The properties were replatting together as one property - combining the two should have equated to roughly two acres. Officially, due to its size and being a corner lot, it is just under sized.

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.

Had the original plats been one acre each as required, no variance would be needed. Other properties that were joined met the ordinance requirement. The original plat received a variance for size, therefore we are requesting an extension of that variance to allow the new property

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

N/A

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.

Yes

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.



The building will be aesthetically more appealing and generally blending with the neighborhood and adjacent buildings and structures found. This will also remove two older structures closer & more exposed to the roadway & neighborhood.

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.

N/A

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. BOA 201819-02 .03

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. 7R

Property Address 307 Cockrell H. 11

Block No. 3

Ovilla, Texas

Zoning RE

The Applicant, Charles Wickersham, 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.

Build metal building on under 2 acres.
Replace metal building to replace 2 older metal buildings,
locate directly behind house.

Has a previously appeal been filed on this property?

YES NO

If YES, when was the previous appeal filed? _____



- Case No. BOA 201819.02 .03

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

Charles Wickersham

Mailing Address

307 Cockrell Hill Rd.

Ov.11a, Tx 75154

Telephone (Hm)

214 498 8059

Telephone (Wk)

214 312 3777

Email

cwick9@yahoo.com

Applicant's signature

A handwritten signature in black ink, appearing to read "Charles Wickersham".

15 Nov 2018

Date

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

APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON

City of OVILLA Board of Adjustment Findings of Fact for VARIANCE

Applicant: CHARLES WICKERSHAM

Case Number: 201819.03

Address: 307 COCKRELL HILL RD.

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14 Section 30.5 CONSTRUCTION MATERIALS 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			
Member Richard Ware			
Member Barbara Betik			
Member Ozzie Molina			
Member Stephanie Heimbuch			
Alt. Member Mike Clark			
Alt. Member Patricia Halyard-King			

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: 2

DISCUSSION & ACTION

Meeting Date: January 22, 2019

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	