

## **AGENDA**

Board of Adjustment  
105 S. Cockrell Hill Road, Ovilla, Texas 75154  
May 18, 2020

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NOTICE is hereby given of a Meeting of the Zoning Board of Adjustment of the City of Ovilla, to be held on **Monday, May 18, 2020** at 7:00 P.M. by teleconference in the Ovilla Municipal Building located at 105 S. Cockrell Hill Road, Ovilla, Texas, 75154, for the purpose of considering the following items:

### **SUPPLEMENTAL NOTICE OF MEETING BY TELEPHONE CONFERENCE:**

In accordance with order of the Office of the Governor issued March 16, 2020, the ZONING BOARD OF ADJUSTMENT of the CITY OF OVILLA will conduct the meeting scheduled at 7:00 PM, Monday, May 18, 2020 by telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19). [There will be no public access to the location described above.]

This supplemental written notice, the meeting agenda, and the agenda packet, are posted online at [www.cityofovilla.org](http://www.cityofovilla.org)

You may join the meeting from your computer, tablet, or smartphone:

<https://global.gotomeeting.com/join/439701149>

The public toll-free dial-in number to participate in the telephonic meeting is: **1-877-309-2073** or **1-786-358-5410** and use Code: **439-701-149#**

The public will be permitted to offer public comments telephonically as provided by the agenda and as permitted by the presiding officer during the meeting.

A recording of the telephonic meeting will be made and will be available to the public in accordance with the Open Meetings Act upon written request.

### **Call to Order**

♦ Pledge of Allegiance

### **Consent Items**

♦ Minutes of the April 20, 2020 Zoning Board of Adjustment 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.** **BOA2020.06 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 45.5 **POWERS OF THE BOARD**; (c) filed by Jorge Montes for a residential variance to construct his main dwelling into the property's building line on his property at 113 Oakwood Lane.

**DISCUSSION/ACTION – Consideration of requested Variance** filed by Jorge Montes.

**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 Zoning Board of Adjustment Meeting** scheduled for **May 18, 2020 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on the 15th day of May 2020, prior to 6:00 p.m.

*G Miller*  
G Miller, City Secretary

**DATE OF POSTING:** MAY 14, 2020 **TIME:** 11:30  am/pm  
**DATE TAKEN DOWN:** \_\_\_\_\_ **TIME:** \_\_\_\_\_  am/pm



**CITY OF OVILLA MINUTES**  
**Monday, April 20, 2020**  
**Board of Adjustment Meeting**

Chair Carol Richtsmeier called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:10 p.m. and called roll with the following BOA members announcing their presence **via teleconference**, thus constituting a quorum:

Barbara Betik	Board Member
Stephanie Heimbuch	Board Member
Patricia Halyard-King	Board Member

City Manager Pam Woodall, City Secretary Glennell Miller, Fire Chief Brandon Kennedy and Code Enforcement Officer Mike Dooly were present.

PL5 Richard Ware were noted absent.

The Pledge of Allegiance was led at this time.

**CONSENT ITEMS**

♦ Minutes of the February 3, 2020 **Special** Zoning Board of Adjustment Meeting

PL4 Heimbuch moved that the BOA APPROVE the minutes as presented for February 3, 2020. PL1 Richtsmeier seconded the motion.

Record vote was called:

**Record Vote:**

BETIK	<u>AYE</u>
HEIMBUCH	<u>AYE</u>
HALYARD-KING	<u>AYE</u>
RICHTSMEIER	<u>AYE</u>

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

♦ Minutes of the February 18, 2020 Zoning Board of Adjustment Meeting

PL2 Betik moved that the BOA APPROVE the minutes as presented for February 18, 2020. PL2 Halyard-King seconded the motion.

Record vote was called:

**Record Vote:**

BETIK	<u>AYE</u>
HEIMBUCH	<u>AYE</u>
HALYARD-KING	<u>AYE</u>
RICHTSMEIER	<u>AYE</u>

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

Chair Carol Richtsmeier, PL1  
Patricia Halyard-King, PL2  
Barbara Betik, PL3  
Vice Chair Stephanie Heimbuch, PL4

Richard Ware, PL5  
Vacant, PL6  
Mark Clark, PL7 Alt.

**CITY OF OVILLA MINUTES**  
**Monday, April 20, 2020**  
**Board of Adjustment Meeting**

**PUBLIC HEARING**  
**&**  
**INDIVIDUAL CONSIDERATION**

**ITEM 1.** **BOA2020.05 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Chris Barzyk for a residential special exception to construct a fence on or beyond the building line on his property at 180 Johnson Lane.

**Chair Richtsmeier read aloud the captioned request and opened the Public Hearing at 7:17 p.m. (Testimony that followed was under proper oath; City Representative)**

Code Enforcement Officer Mike Dooly shared with the Board a brief explanation of the applicant's request. He explained that the property has an existing entrance/drive approach to fence. The applicant will replace with new materials with new construction. Officer Dooly explained that there will be no entrance/exit issues with the new construction. He also added that this property was not a corner lot.

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

The applicant reiterated Mr. Dooly's statements regarding the entrance/exit being large enough, in fact they explained the overhead would be removed and replaced with brick columns and overhead. He explained the opening would be larger.

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

None

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

None

**(Rebuttal or Final Comments:)**

None

**The Public Hearing was closed at 7:26 p.m.**

**DISCUSSION/ACTION – Consideration of requested Special Exception filed by Chris Barzyk.**

The Findings-of-Fact were read aloud. After discussion, the Board reviewed the criterion and completed the Findings-of-Fact form resulting in a **positive** outcome.

PL3 Betik moved that the BOA APPROVE the request for Chris Barzyk for a special exception as requested on his property as requested in BOA 2020.05.

PL4 Heimbuch seconded the motion.

Record vote was called:

**Record Vote:**

BETIK	<u>AYE</u>
HEIMBUCH	<u>AYE</u>
HALYARD-KING	<u>AYE</u>
RICHTSMEIER	<u>AYE</u>

Chair Carol Richtsmeier, PL1  
Patricia Halyard-King, PL2  
Barbara Betik, PL3  
Vice Chair Stephanie Heimbuch, PL4

Richard Ware, PL5  
Vacant, PL6  
Mark Clark, PL7 Alt.

**CITY OF O'VILLA MINUTES**  
**Monday, April 20, 2020**  
**Board of Adjustment Meeting**

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

**ITEM 2 .** *DISCUSSION/ACTION* - Consideration of any item(s) pulled from the Consent Agenda above for individual consideration and action.  
None

**Adjournment** There being no further business, Chair Richtsmeier adjourned the meeting at 7:31 p.m.

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Chair Carol Richtsmeier

ATTEST:

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G Miller, City Secretary

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

*Approved on May 18, 2020*

Chair Carol Richtsmeier, PL1  
Patricia Halyard-King, PL2  
Barbara Betik, PL3  
Vice Chair Stephanie Heimbuch, PL4

Richard Ware, PL5  
Vacant, PL6  
Mark Clark, PL7 Alt.



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

Applicant: Chris Barzyk  
Address: 180 Johnson Ln.

Case Number: BOA2020.05

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

Member Carol Richtsmeier	AYE		
Member Richard Ware			
Member Stephanie Heimbuch	AYE		
Member Barbara Betik	AYE		
Member Patricia Halyard-King	AYE		
Alt. Member Mark Clark			
Alt. Member Vacant			

**TOTALS:**

4      FOR  
0      AGAINST  
0      ABSTAIN

The special exception is hereby:

✓      granted      \_      denied

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

\_\_\_\_\_  
DATE

Attest:

\_\_\_\_\_  
Board Secretary

\_\_\_\_\_  
DATE

# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

Item: 1

DISCUSSION & ACTION  
Meeting Date: May 18, 2020

### Attachments:

1. Permit Application
2. Variance Application/packet
3. Findings of Fact

### Agenda Item / Topic:

**ITEM 1.** **BOA2020.06 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 45.5 **POWERS OF THE BOARD; (c) yard area** filed by Jorge Montes for a residential variance to construct his main dwelling into the property's building line on his property at 113 Oakwood Lane.

### Discussion / Justification:

**APPLICANT:** Jorge Montes  
**LOCATION:** 113 Oakwood Lane  
**ZONING:** RE Residential

**Applicant's Proposal:** Applicant requests to construct a new home into the building line.

**Discussion: The Ovilla Code of Ordinances, Chapter 14, Section 45.5, POWERS OF THE BOARD; states:**

C. **Variances** To authorize 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 it cannot be appropriately developed without such modification. 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 Waxahachie Daily Light; 12 certified letters mailed. There have been no responses.

### Sample Motion(s):

City of  
Ovilla

**"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO JORGE MONTES TO CONSTRUCT HIM MAIN DWELLING BEYOND THE BUILDING LINE ON HIS PROPERTY AT 113 OAKWOOD LANE AS PRESENTED IN BOA2020.06."**

# City of Ovilla

complaint of Re:lines

Phone: (972) 617-7262

Fax: (972) 515-3221

105 S. Cockrell Hill Rd.

Ovilla, Texas 75154

## mikelarreguin6@gmail.com Residential Building Permit Application

Building Permit Number:

Valuation:

150,000

Zoning:

Valuation w/land:

200,000

Project Address:

113 Oakwood Ln.

Lot: 15

B1K 2

Subdivision: Brookwood Addition

Project Description:

NEW SFR



SFR REMODEL/ADDITION



SPECIFY OTHER:

PLUMBING/ELECTRICAL



FLATWORK



SPRINKLER



SWIMMING POOL



ACCESSORY BUILDING



FENCE



Proposed Use:

FAMILY HOME

Description of Work:

NEW built

Area Square Feet:

Living: 2,601

Garage: 485 sq

Covered  
Porch:

319

Total: 3485

Number of stories: 1

Homeowner's name:

Jorge Montes

Address: 1315 Lyndon Ave. DESOTO, TX 75115

Phone Number:

Home Number

Mobile Number: 469)274-0188

General Contractor	Contact Person	Phone Number	Contractor License Number
Jorge Montes			
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Alejandro Hernandez AV EXCEL PV	Alejandro Hernandez	469 7049060	
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number
Montgomery Plum	Francisco Rodriguez	214 517 5535	

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:

Jorge Montes

Date: Feb 21 2020

OFFICE USE ONLY:

Approved by: Scott H BV

Date approved:

2/26/2020

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 # 2020-003655

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 #	2020-0416	Valuation:	\$150,000.00
Zoning:		Valuation w/ Land:	\$0.00
Project Address:	113 OAKWOOD LN	Subdivision:	
Lot:	Block: 2		
<b>Project Description:</b>			
New SFR	Yes	Flatwork	
Plumbing/Electrical		Accessory Building	
Swimming Pool		Sprinkler	
SFR Remodel/Addition		Fence	
Other		Specify Other:	
Proposed Use:	NEW SFR		
Description of Work:	NEW SFR		
<b>Area Square Feet:</b>			
Living:	2601	Garage:	485
Total:	3465.00	Covered Porch: 379	
# of Stories:	1		

### Homeowner Details

Name: JORGE I & YAEL MONTES  
Address: 217 MARTIN DR, LANCASTER, TX 75146  
Phone # (469) 274-0188 Email:

### Applicant Details

Applicant Type: Owner  
Name: JORGE MONTES  
Address: ,  
Phone # (469) 274-0188 Email:

Date	01/30/2020
New Meter #	01152408 34"
Address	113 Oak wood
Old meter Reading	N/A
New meter Reading	0.0

### General Contractor Details

**License #****Name:** JORGE MONTES**Phone #** (469) 274-0188 **Email:****Mechanical Contractor Details****License #****Name:** ALEJANDRO HERNANDEZ**Phone #** (469) 704-9060 **Email:****Electrical Contractor Details****License #****Name:****Phone #** **Email:****Plumber/Irrigator Details:****License #****Name:** FRANCISCO RODRIGUES**Phone #** (214) 517-5535 **Email:**

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

Approved By :	Approve	Date approved:	02/26/2020
City Manager:	Approve	Date Approved:	02/26/2020

**Plan Review Fee:** \$480.00**Total Fees:** \$3,214.52**Building Permit Fee:** \$2,400.00**Issued Date:** 03/02/2020**Park Impact Fee:** \$334.52**Expiry Date:** 08/29/2020**Capital Recovery Fee:** \$0.00**Issued By:** Bureau Veritas**Fire Meter:** \$0.00**BV Project #** 2020-003655**Water Meter Cost:** \$0.00**Water Impact:** \$0.00**Sewer Connection Fee:** \$0.00**Sewer Impact:** \$0.00

## SURVEY PLAT

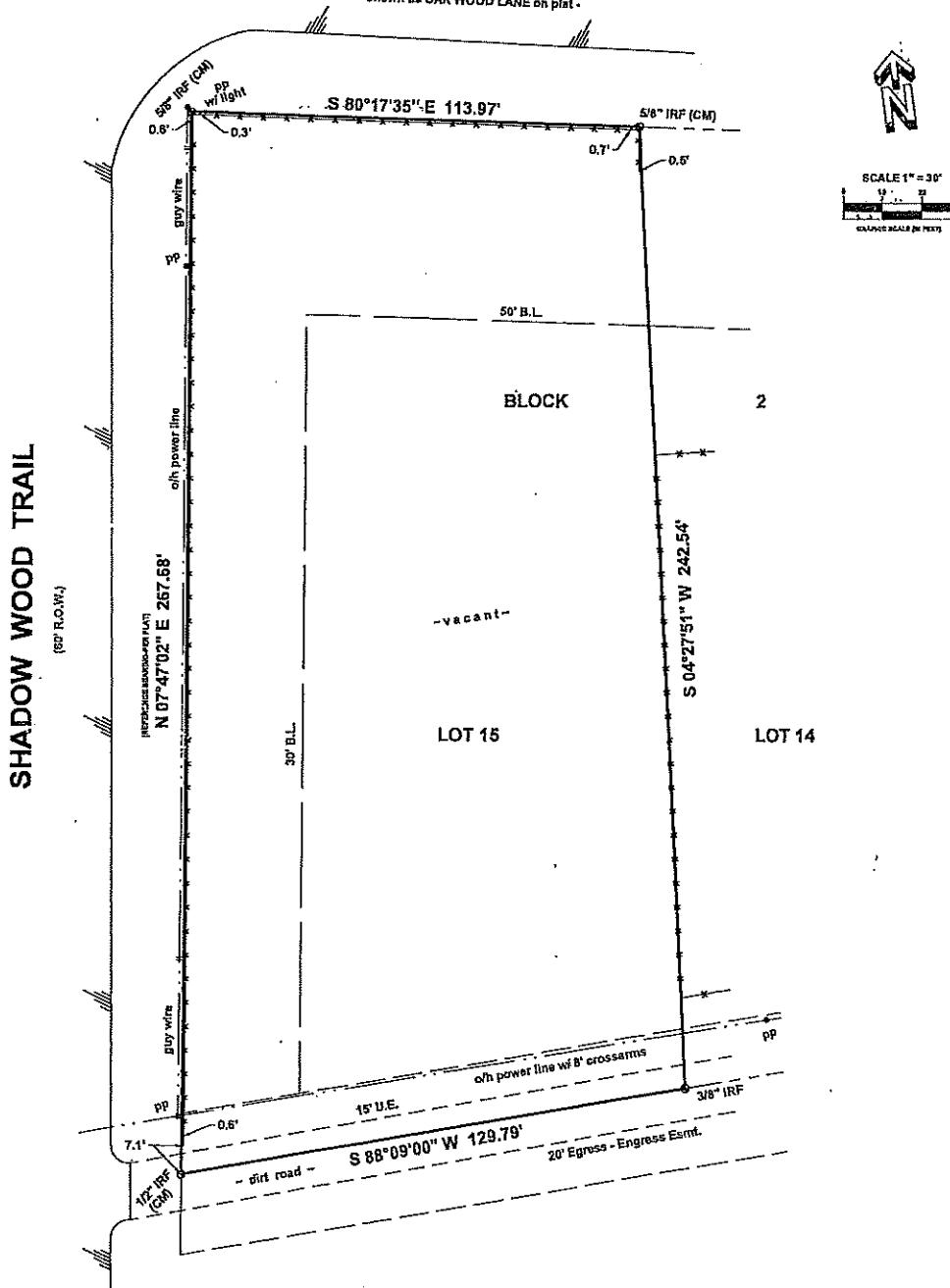
TO: Fidelity National Title Agency, Inc., GF#: FT-44139-9001391800189

**ADDRESS:** 113 Oakwood Lane, Red Oak, Texas.

Being Lot 15 in Block 2 of Brookwood Addition No. 2, an Addition to the City of Ovilla, Ellis County, Texas, per Plat Recorded In Cabinet A, Slide 562, Plat Records of Ellis County, Texas.

## OAKWOOD LANE

(69' R.O.W.)  
- shown as OAK WOOD LANE on plat.



**NOTE:**  
Monuments shown (CM) herein were used as controlling monuments for purposes of this survey.

Easements and Building Lines shown are per plat, unless otherwise shown. D.U.E. = drainage & utility easement U.E. = utility easement D.E. = drainage easement B.L. = building line  
**LEGEND OF SYMBOLS** Survey Monument IRS - Iron Rod Set IRF - Iron Rod Found gm - Gas Meter em - Electric Meter w.m. - Water Meter  
 • pp - Power Pole • lp - Light Pole ♦ fh - Fire Hydrant mh - Man Hole sc - Sewer Cleanout  
 Fence Line - x - x - x Boundary Line Bldg. Line Center Line Easement Line Utility Line

THE PROPERTY SHOWN HEREON IS NOT LOCATED IN A DESIGNATED (100 YEAR FLOOD HAZARD AREA) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY RATE MAP PANEL NUMBER: 48139C0050 F, DATED: JUNE 3, 2013.

PROPERTY IS LOCATED IN ZONE: X

The plan shown herein represents a true, correct and accurate representation of the results of a survey made on the ground by me or under my direction and supervision. The size, type and location of all walls and appurtenant buildings and improvements to the property found on the ground are shown herein. The true distance to the nearest intersecting street or road is shown herein. Except as shown herein there were no walls and appurtenant structures or improvements or physical evidence of any kind found on the ground in the property subject. The subject property has physical access to the street or road shown. There was no physical evidence of record. This is a copy of a survey made on a government surveyor's chain and rod and has been checked. This survey is the result of a conscientious and professional operation regarding the facts of the survey and does not encompass a warranty of guarantees, expressed or implied. The surveyor grants a license to use this drawing exclusively for the original drawing for which the survey was performed. No part published. All Rights Reserved. May not be copied, stored or reproduced without prior, written permission.

Scale 1" = 30'

Date December 5, 2018

Job No. X39316

Drawn By NB

## Shields and Lee Surveyors

1421 Ferndale Avenue

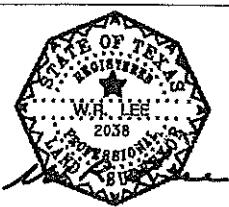
1421 Fenimore Avenue  
Dallas, Texas 75224

Phone (214) 942-8496

TBPLS Firm No. 10017000



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W.R. Lee, R.P.L.S. 2038

*VICINITY MAP  
for reference only*

1 SITE PLAN

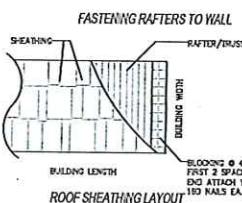
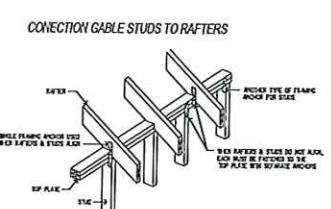
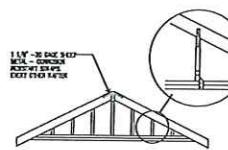
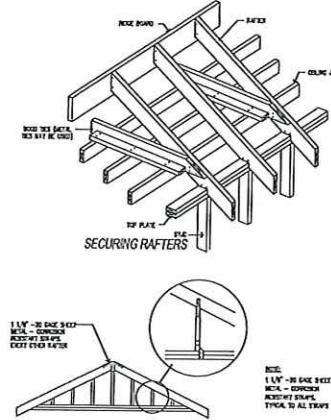
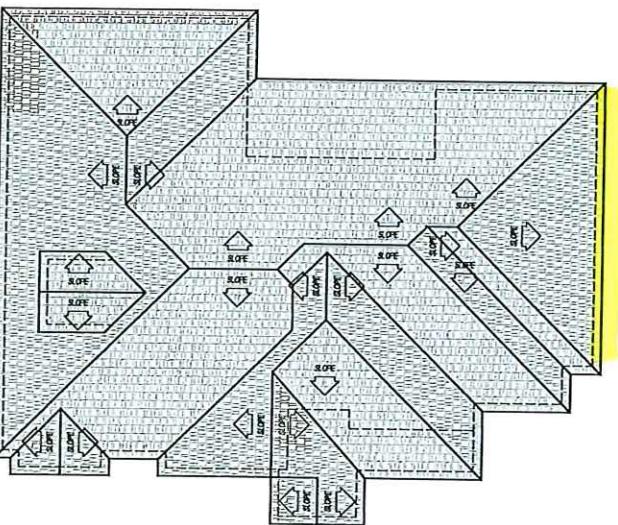
Scale: 1'-0":20'

### 3 ROOF PLAN

Scale: 1/8":1'-0"

## 4 FRAMING DETAILS

Scale: NTS



THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THE STRUCTURE. THESE PLANS MUST BE VERIFIED AND CHECKED BY THE BUILDER OR DESIGNER, AND ALL CONTRACTORS OF THIS JOB PRIOR TO CONSTRUCTION. BUILDER, DESIGNER, AND CONTRACTORS OF SERVICES, HVAC, AND STRUCTURAL, BEFORE BEGINNING CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE, AND LOCAL CODES AND RESTRICTIONS TAKE PRIORITY OVER ANY PART OF THESE PLANS.

GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS, HOWEVER, BECAUSE OF THE VARIETY IN GEOGRAPHIC LOCATIONS, FC & AH WILL NOT ASSUME LIABILITY FOR ANY DAMAGES DUE TO ERRORS, OMISSIONS, OR DEFECTS IN THESE PLANS. OWNER/BUILDER MUST COMPLY WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONE TIME, ANY COPYING, TRACING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address  
113 OAKWOOD LN  
OVILLA, TX  
75154

Project SITE	Sheet
Date 02/17/20	
Scale 1'-0"=10'	
Drawn By AH	
1.0	

Board of Adjustment Re:

Applicant Jorge I and Yael Montes

113 Oakwood

Ovilla Texas 75154

Variance Request for 20 foot side building line along road replacing 25 foot building line per city code.

### **15.3 DENSITY, AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS**

The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes, maximum building height, and maximum percent of lot coverage by buildings, as pertains to the "R-E" Single Family district shall conform to the provisions provided in Table 15.A, Area Requirements for the "R-E" Zoning District uses primarily oriented to low density residential purposes. The district also serves as a transitional land use element pending future more intensive urbanization; open space for the protection and enhancement.

**Table 15.A**

#### **"R-E" Zoning District Area Requirements**

<input checked="" type="checkbox"/>	Maximum Density	1.0 d.u./acre* Gross/net
	Minimum Lot Area	1.0 acre (43,560 sf)
	Minimum Lot Width	150 ft.
	Minimum Lot Depth	250 ft.
	Minimum Front Yard	50 ft.
	Minimum Side Yard	20 ft.
	Minimum Side Yard adjacent to Street (corner lot)	25 ft.
	Minimum Rear Yard	40 ft.
	Maximum Building Height	35 ft. or 2.5 stories
	Minimum Dwelling Size	2,400 sq. ft.

\*d.u. = dwelling unit

## 45.5 POWERS OF THE BOARD

The Zoning Board of Adjustment shall have the powers and exercise the duties of a Zoning Board of Adjustment in accordance with Section 211.009 of the Texas Local Government Code. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications, and to that end shall have the necessary authority to ensure continuing compliance with its decision. The Zoning Board of Adjustment shall have the following powers and duties: (Ordinance 2018-15 adopted 8/13/18)

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

B. Special exceptions. To hear and decide upon those applications for special exceptions when the same is authorized under this ordinance subject to Board approval. A special exception shall not be granted by the Zoning Board of Adjustment unless it finds:

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 exception will be wholly compatible with the use and permitted development of adjacent properties.

C. Variances. To authorize 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 it cannot be appropriately developed without such modification. A variance from the terms of this ordinance shall not be granted by the Zoning Board of Adjustment unless and until it finds that:

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;
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 actions of the applicant;
4. The Board 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 Zoning 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.

D. Variance Uses. 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.

**E. Nonconforming Uses.**

1. The Board may permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by the building, and the addition of off-street parking or off-street loading to a nonconforming use.
2. The Board may require the discontinuance of nonconforming uses of land or buildings under any plan whereby the full value of the buildings and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected, when considered in light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property.
3. The Board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation, or maintenance of any nonconforming use within the city.



## 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. \_\_\_\_\_



## 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.

Yes, the land is long and narrow.

**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, we are on a corner lot

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

Yes, the shape of property is long and narrow

**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.

Yes, See pictures

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**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, it's a Residential Home

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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. \_\_\_\_\_

## 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. 15

Property Address 113 Oakwood Ln.

Block No. 2

Ovilla, TX 75154

Zoning RE

The Applicant, Jorge Montes, of ELLIS County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article       , Chapter 14, Section 15.3 of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

WE ARE ASKING 5 FT. INTO THE BUILDING LINE  
FOR THE REASON THAT THE LAND IS LONG AND NARROW.  
AND WE ARE ON A CORNER LOT.

MINIMUM SIDE YARD REQUIREMENT 25' ADJACENT TO STREET

Has a previously appeal been filed on this property? YES / NO

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



- 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 \_\_\_\_\_ of \_\_\_\_\_  
(Applicant's agent) (Address)

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

Respectfully submitted:

Applicant's Name Jorge Montes

Mailing Address 1315 Lyndon Ave

Desoto, tx 75115

Telephone (Hm) 469 274 0188

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

Email montesjorge18@gmail.com

3.13.2020

Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



DATE: \_\_\_\_\_

• Case No. \_\_\_\_\_

\*\*\*\*\*

**OFFICE USE ONLY**

DATE RECEIVED: \_\_\_\_\_ HEARING DATE: \_\_\_\_\_

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

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





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

**Applicant: JORGE MONTES**  
**Address: 113 OAKWOOD LANE**

**Case Number: BOA2020.06**

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:

	<b>YES</b>	<b>NO</b>
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:**

	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
<b>Member Carol Richtsmeier</b>			
<b>Member Richard Ware</b>			
<b>Member Barbara Betik</b>			
<b>Member Patricia Halyard-King</b>			
<b>Member Stephanie Heimbuch</b>			
<b>Alt. Member Vacant</b>			
<b>Alt. Member Mark Clark</b>			

**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: 2**

### DISCUSSION & ACTION

Meeting Date: May 18, 2020

#### 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

#### Sample Motion(s):

N/A