

MEETING AGENDA

Board of Adjustment
105 S. Cockrell Hill Road, Ovilla, Texas 75154
July 20, 2020

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, July 20, 2020 at 7:00 P.M. via teleconference 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).

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, July 20, 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

The toll-free dial-in number to participate in the Zoom meeting is: **1 (346) 248-7799**
Meeting ID: **479 179 4690**.

You may also join the Zoom meeting at <https://zoom.us/j/4791794690>

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

Comments, Presentations, Reports and/or Appointments

Oath of Office presented for new member of the Board of Adjustment Steven Miner, PL6 and
Incumbent members Patricia Halyard-King, PL2, Stephanie Heimbuch, PL4

Oaths of Office were done prior to the teleconference for Steven Miner, PL6
and Patricia Halyard-King, PL2

Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 1

DISCUSSION & ACTION Meeting Date: July 20, 2020

Attachments:

- I. Refer to the attached pages 14A-120 and 14A-121 of the Ovilla Code of Ordinance Book.

Agenda Item / Topic:

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

Discussion / Justification:

Chapter 14, Section 45.2 & 45.4 of the Ovilla Code of Ordinances defines duties and terms of members and appointment of the chair and vice-chair. The chair and vice-chair will serve for a term of one year or until Successor is appointed.

Sample Motion(s):

"I NOMINATE _____ TO SERVE AS CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."

- _____
- _____

ANY OTHER NOMINATIONS?

"I MAKE THE MOTION THAT THE BOARD APPOINTS _____ AS CHAIR OF THE OVILLA ZONING BOARD OF ADJUSTMENT."

Section 44 - Completion of Buildings Under Construction

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 45 - Zoning Board of Adjustment

45.1 ESTABLISHMENT

A. Composition. A Zoning Board of Adjustment is hereby established and shall consist of five regular members and two alternate members to be appointed by the City Council. Each member shall be appointed for a term of two years by the City Council. Alternate members shall serve in the absence of regular member(s) in keeping with rules and procedures adopted by the Zoning Board of Adjustment.

(Ordinance 2010.013 adopted 6/14/10)

B. Removal. Members of the Zoning Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the City Council for the unexpired term of the member affected. (Ordinance 2018-15 adopted 8/13/18)

C. Quorum. All cases to be heard by the Zoning Board of Adjustment must be heard by a minimum number of four members.

D. Cause for Removal. Cause for removal shall include missing more than two consecutive meetings or three meetings in any one twelve (12) month period or such other misconduct as the City Council may establish by resolution.

(Ordinance 2010.013 adopted 6/14/10)

45.2 TERMS OF OFFICE

A. Terms. Each member shall serve a term of office of two years. After the expiration of a two-year term of office, a member shall serve until a successor is appointed. The terms of three of the members shall expire on the third Monday in June of each odd-numbered year, and the terms of two of the members shall expire on the third Monday in June of each even-numbered year. (Ordinance 2018-15 adopted 8/13/18)

B. Places. The members of the Board shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years. (Ordinance 2010.013 adopted 6/14/10)

45.3 PROCEDURE

A. Meetings.

1. The Board shall hold an organizational meeting on the third Monday in July of each year and shall elect a chair and a vice-chair from among its members before proceeding to any other matters of business.
2. Meetings shall be held as needed at the call of the chairman and at such other times as the Board may determine.
3. All meetings shall be open to the public, except as permitted by the Texas Open Meetings Act.

B. Minutes. The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Board, and which shall not become effective unless the Board has furnished a copy of the rules to the City Manager.

(Ordinance 2018-15 adopted 8/13/18)

C. Rules. The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance and state statutes.

D. Quorum. A quorum for the conduct of business shall consist of four members of the Board.

E. Misconduct. The members of the Board shall regularly attend meetings and public hearings of the commission and shall serve without compensation. Three consecutive unexcused absences or such other misconduct as the Council may specify by resolution shall constitute grounds for dismissal.

45.4 OFFICERS

A. Duties. Duties of the officers shall be as follows:

1. The chair shall preside at all meetings and may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court.
2. The vice-chair shall assist the chair in directing the affairs of the Board and act in the absence of the chair.

B. Term. Officers will serve for a term of one year or until a successor is appointed.

(Ordinance 2010.013 adopted 6/14/10)

Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 2

DISCUSSION & ACTION

Meeting Date: July 20, 2020

Attachments:

1. Refer to the attached pages 14A-120 and 14A-121 of the Ovilla Code of Ordinance Book.

Agenda Item / Topic:

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

Discussion / Justification:

Chapter 14, Section 45.2 & 45.4 of the Ovilla Code of Ordinances defines duties and terms of members and appointment of the chair and vice-chair. The chair and vice-chair will serve for a term of one year or until Successor is appointed.

Sample Motion(s):

"I NOMINATE _____ TO SERVE AS VICE CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."

1. _____

2. _____

ANY OTHER NOMINATIONS?

"I MAKE THE MOTION THAT THE BOARD APPOINTS _____ AS VICE CHAIR OF THE OVILLA ZONING BOARD OF ADJUSTMENT."

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(Ordinance 2010.013 adopted 6/14/10)

Ovilla Zoning Board of Adjustment

AGENDA ITEM REPORT

Item: 3

DISCUSSION & ACTION

Meeting Date: July 20, 2020

Attachments:

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

Agenda Item / Topic:

ITEM 3. **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 Louis Waggoner for a residential special exception to construct a fence on or beyond the building line on his property 741 Westmoreland Road.

Discussion / Justification:

APPLICANT: Louis Waggoner
LOCATION: 741 Westmoreland Road
ZONING: RE Residential

Applicant's Proposal: Applicant requests to construct fence on or beyond 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 Waxahachie Daily Light; 10 certified letters mailed. There have been no responses.

N/A

Sample Motion(s):

"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE SPECIAL EXCEPTION TO LOUIS WAGGONER TO CONSTRUCT A FENCE ON OR BEYOND THE BUILDING LINE ON HIS PROPERTY AT 741 WESTMORELAND ROAD AS PRESENTED IN BOA20.07."



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 #	2020-0490	Valuation:	\$300,000.00
Zoning:	R15	Valuation w/ Land:	\$350,000.00
Project Address:	741 WESTMORELAND RD		
Lot:	Block: A	Subdivision:	Westmoreland Road Estates #1
Project Description:			
New SFR	Flatwork		
Plumbing/Electrical	Accessory Building		
Swimming Pool	Sprinkler		
SFR Remodel/Addition	Fence	Yes	
Other	Specify Other:		
Proposed Use:	FENCE		
Description of Work:	New fence installation		
Area Square Feet:			
Living:	Garage:	Covered Porch:	
Total: 0.00			
# of Stories:			

Homeowner Details

Name: SHANDRA & LOUIS WAGGONER MOULTON
Address: 134 GLACIER LN, CEDAR HILL, TX 75104
Phone # (214) 563-8756 **Email:** shandramoulton@hotmail.com

Applicant Details

Applicant Type: Agent
Name: Louis Waggoner
Address: 134 Glacier LN Cedar Hill, TX 75104
Phone # (267) 253-7516 **Email:** lou.wagg@yahoo.com

General Contractor Details

License # 1230982

Name: Louis Waggoner

Phone # (267) 253-7516 Email: lou.wagg@yahoo.com

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: \$0.00

Building Permit Fee: \$0.00

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



Building Permit

City of Ovilla

P.O. BOX 5047, Ovilla, TX 75154

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

Permit No. 2020-0490

Location: 741 WESTMORELAND RD

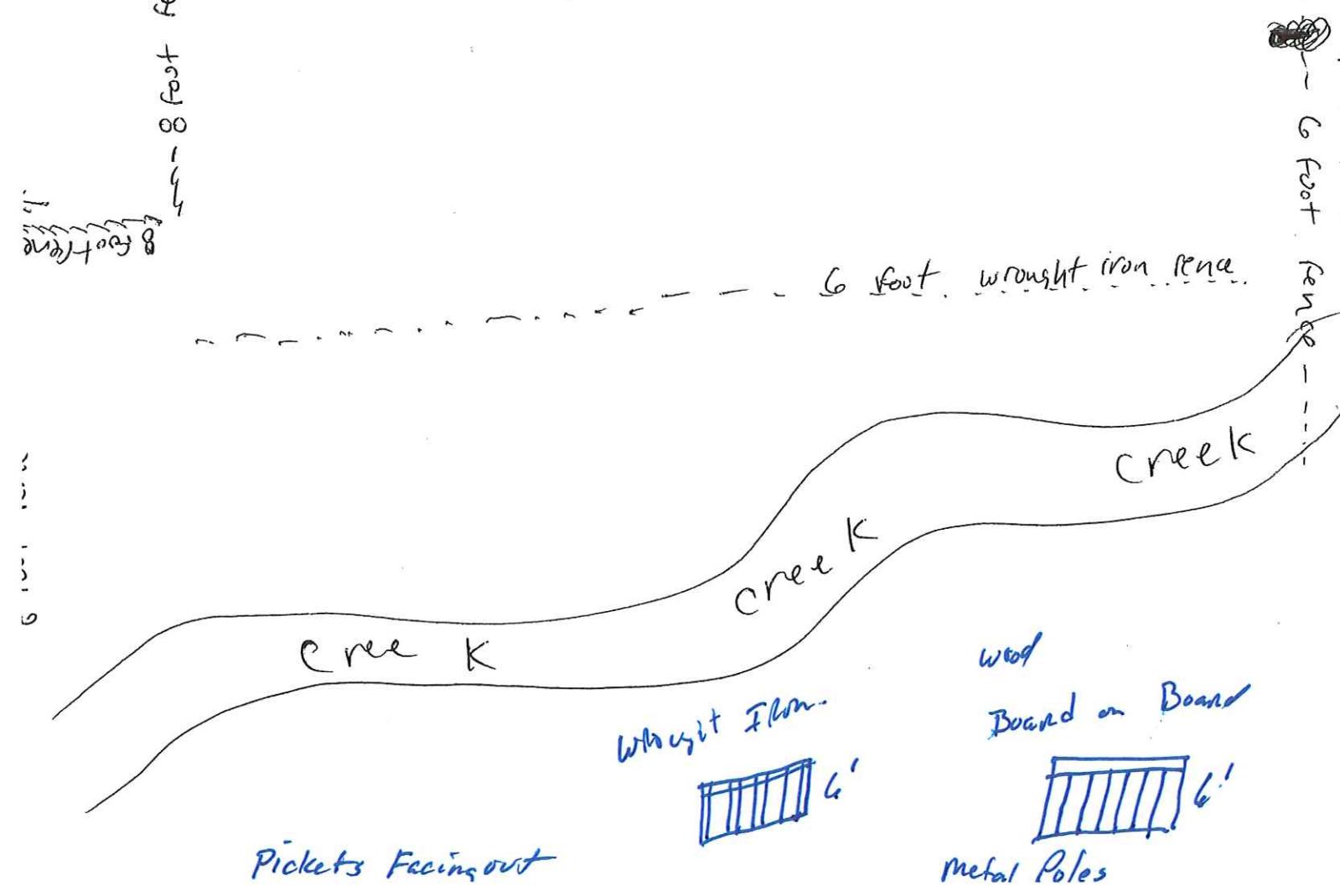
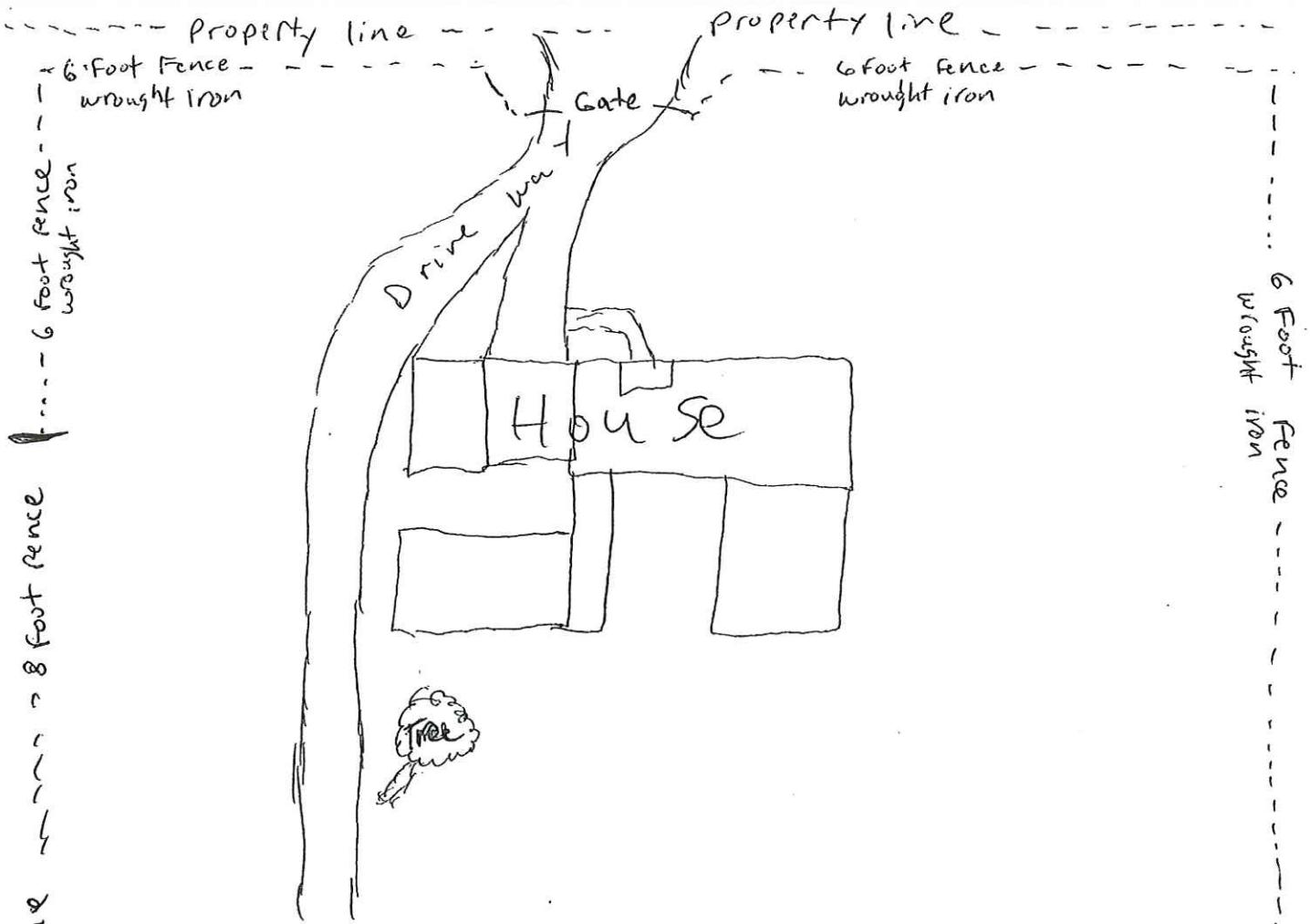
Description: New fence installation

Owner: SHANDRA & LOUIS WAGGONER MOULTON

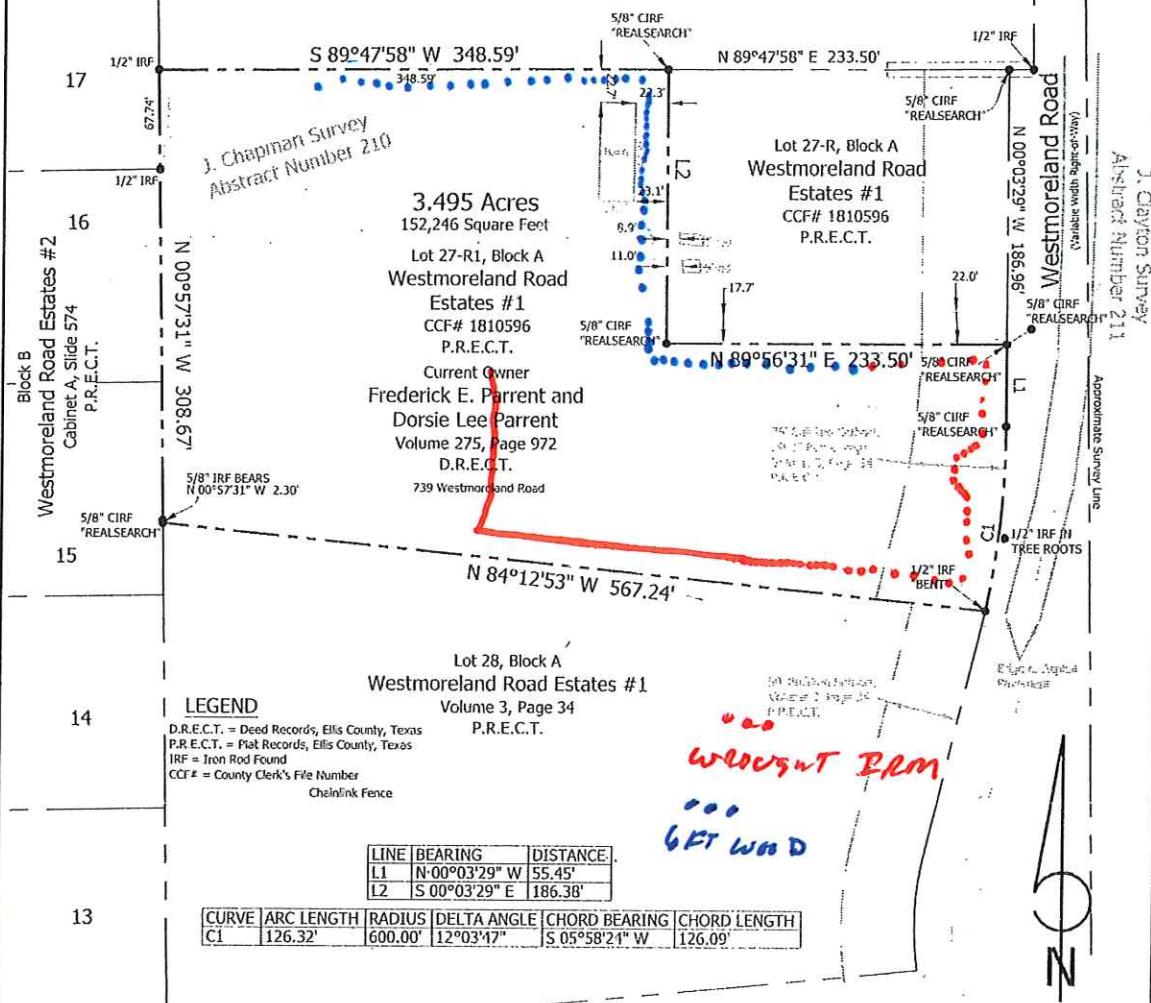
Date Issued:

Building Inspector: _____

This Permit To Be Posted In Conspicuous Place On Site



Lot 26, Block A
Westmoreland Road Estates #1
Volume 3, Page 34
P.R.E.C.T.



BOUNDARY SURVEY OF

Lot 27-R1, Block A, Westmoreland Road Estates #1, an addition to the City of Ovilla, Texas, according to the plat thereof recorded in CCF# 1810596, Plat Records of Ellis County, Texas.

Surveyor's Certification

I, Jeremy Luke Deal, Registered Professional Land Surveyor Number 5696, State of Texas, do hereby certify that this sketch was prepared from the public records, and from an actual and accurate survey of the property performed on the ground under my direction and supervision on March 21, 2018. The visible improvements are as shown hereon. Except as shown hereon, there are no apparent encroachments onto the property or apparent protrusions therefrom. This sketch and the survey on which it is based were prepared without the benefit of current Commitment for Title Insurance. I did not abstract the title to this property, nor did I search the public records for easements, adverse claims, or other encumbrances that might affect this property. According to Community Panel Number 4813C0075F, dated June 3, 2013, of the Federal Emergency Management Agency, National Flood Insurance Program Map, this property lies within Zone "X" which is not a Special Flood Hazard Area. If this site is not within a Special Flood Hazard Area, this statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man made or natural causes. This statement shall not create liability on the part of the Surveyor. The Basis of Bearing is the Texas Coordinate System, North American Datum of 1983, North Central Zone, 4202.

Executed this the 17th day of April, in the year of our Lord 2018

Project Number: 180033

Date: April 6, 2018

Revised Date:

Revision Notes:

Sheet 1 of 1

REALSEARCH OF TEXAS, LLC

P.O. Box 1006, Godley, Texas 76044
Ph. 817-937-2655, jdeal@realsearch.org, www.realsearch.org
"Thou shall not remove thy neighbor's landmark" Deut 19:14
TREC Firm Registration # 10153200 TREC Firm Registration #

A circular seal for a registered land surveyor in Texas. The outer ring contains the text "STATE OF TEXAS" at the top and "REGISTERED LAND SURVEYOR" at the bottom. The inner circle features a five-pointed star in the center, with "JEREMY LUKE DEAL" written above it and "5696" written below it. The bottom half of the inner circle contains the text "PROFESSIONAL P.R." and "LAND SURVEYOR".

SCALE : 1" = 100'

0' 100' 200'



Fence Construction Permit Checklist

DATE 5-21-2020

OWNER Louis Waggoner

ADDRESS 741 West Moreland

1. Permit Signed by property owner	<input checked="" type="checkbox"/> Yes	No	
2. Plot plan with survey stamp	<input checked="" type="checkbox"/> Yes	No	
3. Pickets facing out noted	<input checked="" type="checkbox"/> Yes	No	
4. Height 6 ft max	<input checked="" type="checkbox"/> Yes	No	
5. Utility easements noted	<input checked="" type="checkbox"/> Yes	No	
6. Right of Way	<input checked="" type="checkbox"/> Yes	No	
7. Building Line noted	<input checked="" type="checkbox"/> Yes	No	
8. Cross section image	<input checked="" type="checkbox"/> Yes	No	
9. Break away panel access	<input checked="" type="checkbox"/> Yes	No	
10. Fence Material	<input checked="" type="checkbox"/> Wood	<input checked="" type="checkbox"/> Metal	Other <u>metal Pale</u>

Board of Adjustment Variance Required Yes No

Approved Denied Reason Special Exception Required
To Construct to
Front property Line.

DATE 6-1-2020

NAME Melv Doug

Chapter 14

35.3

C. No fence allowed on front of
Dw. Idg. Line.

D. Fence constructed to property
line w/special exception

Permit request .

Louis Waggoner

741 Westmoreland

Ovilla Texas 75154

Special Exception required to construct fence to property line.

Chapter 14 Ovilla Code of Ordinance

35.3 FENCES IN RESIDENTIAL DISTRICTS

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 eight.



DATE: JUNE 2, 2020

Case No. BDA 20.07

REQUEST FOR A SPECIAL EXCEPTION

To the
OVILLA BOARD OF ADJUSTMENT

CITY OF OVILLA

§

COUNTY OF ELLIS

STATE OF TEXAS

§

TO THE HONORABLE BOARD OF ADJUSTMENT

Property description (Attach field notes if necessary)

Lot No. 27R-1

Property Address 741 S. Westmoreland Rd

Block No. A

ovilla TX 75154

Property Zoned RE

OWNER OF PROPERTY Louis Waggoner & Shandra Moulton

APPLICANT Louis Waggoner

SPECIAL EXCEPTION Fence Construction



Case No. BOA 20.07

The Applicant/Owner, Louis Waggoner, of 2115 County, requests that the Ovilla Board of Adjustment grant the following SPECIAL EXCEPTION to Article 14, Chapter 35.3 of the Ovilla Zoning Ordinance. Please state in detail what type of SPECIAL EXCEPTION you are seeking, attach additional sheets if necessary.

Seeking an exception for a straight line wrought iron fence within my property lines, six feet tall in the front with a gate. The back of the property will have a 8 foot fence made of wood board on ~~and~~ board with metal poles.

To construct a fence to the property line.

Has a previous appeal been filed on this property?

YES NO

If YES, when was the previous appeal filed? _____



Case No. BOA 20.07

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



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.



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 Louis Waggoner of 741 S. Westmoreland Rd.
(Applicant's agent) (Address)

Ovilla Tx. 75154, to represent me in this SPECIAL EXCEPTION request before the Board of
Adjustment.
(Telephone)

Respectfully submitted:

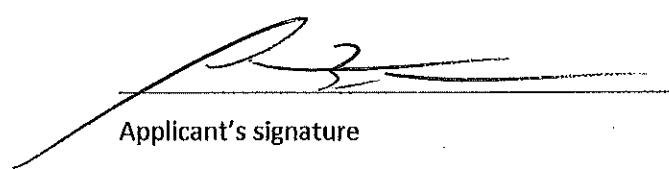
Applicant/Owner Name Louis Waggoner + Shandra Moulton

Mailing Address 134 Glacier Lane Cedar Hill TX 75104

Telephone (Hm) (267) 253-7516 + (214) 563-8756

Telephone (Wk) _____

Email lou.wagg@yahoo.com


Applicant's signature

Date

6/2/2020

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: _____



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

Applicant: LOUIS WAGGONER
Address: 741 WESTMORELAND RD

Case Number: BOA 20.07

Upon giving public notice and conducting a public hearing on this ***SPECIAL EXCEPTION*** request in accordance with Chapter 14, Section 35.3 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

CAROL RICHTSMEIER			
RICHARD WARE			
STEPHANIE HEIMBUCH			
BARBARA BETIK			
PATRICIA HALYARD-KING			
MARK CLARK			
STEVEN MINER			

TOTALS:

— FOR
— AGAINST
— ABSTAIN

The special exception is hereby:

— granted — denied

Presiding Officer of BOA

DATE

Attest:

City or Board Secretary

DATE