

**AGENDA**  
**Board of Adjustment Regular Meeting**  
**Monday, January 9, 2023**

Pursuant to the provisions of Chapter 551 VTCA Government Code, notice is hereby given of a Meeting of the Board of Adjustment to be held Monday, January 9, 2023, at 6:00 P.M. from 105 S. Cockrell Hill Road, Ovilla, Texas, 75154 for the purpose of considering the listed item(s). The Board of Adjustment will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Board of Adjustment may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda. Private Consultation with Attorney – Section 551.071

**Call to Order**

◆ Pledge of Allegiance

**Consent Items**

*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.*

None

**Public Hearing**

**P1**      **BOA 23.01 – Public Hearing** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Zoning, 30.3 ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS; PLACEMENT filed by Fortino Pineda for a residential variance for an accessory building with the main opening/doors facing the front of the property located at the residence of 109 Elmwood Dr, Ovilla, TX 75154.

**Individual Consideration**

**ITEM 1.**      **DISCUSSION/ACTION** – Consideration of and action on an appeal to the Ovilla Code of Ordinances, Chapter 14, Zoning, 30.3 ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS; PLACEMENT filed by Fortino Pineda for a residential variance for an accessory building with the main opening/doors facing the front of the property located at the residence of 109 Elmwood Dr, Ovilla, TX 75154.

**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 **Monday, January 9, 2023, @ 6:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on the 6th day of January 2023, prior to 6:00 p.m.

**PLEASE SILENCE ALL CELL PHONES, AND OTHER ELECTRONIC EQUIPMENT WHILE THE ZONING BOARD OF ADJUSTMENT MEETING IS IN SESSION.**

Richard Dormier, Mayor  
Kimberly Case, PL1  
Dean Oberg, PL2

## City of Ovilla

David Griffin, PL3  
Doug Hunt, PL4  
Brad Piland, PL5

*Emily Starkey*  
Emily Starkey  
Deputy City Secretary



DATE OF POSTING: 1/6/2023 TIME: 10:00 am/pm  
DATE TAKEN DOWN: \_\_\_\_\_ TIME: \_\_\_\_\_ am/pm

**PURSUANT TO SECTION 30.06, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.**

**CONFORME A LA SECCIÓN 30.06 DEL CÓDIGO PENAL (ENTRADA SIN AUTORIZACIÓN POR TITULAR DE LICENCIA CON UNA PISTOLA OCULTA), UNA PERSONA CON LICENCIA BAJO EL SUBCAPÍTULO H, CAPÍTULO 411 DEL CÓDIGO DE GOBIERNO (LEY DE LICENCIAS DE PISTOLAS), NO PUEDE ENTRAR EN ESTA PROPIEDAD CON UNA PISTOLA OCULTA.**

**PURSUANT TO SECTION 30.07, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.**

**CONFORME A LA SECCIÓN 30.07 DEL CÓDIGO PENAL (ENTRADA SIN AUTORIZACIÓN POR TITULAR DE LICENCIA CON UNA PISTOLA VISIBLE), UNA PERSONA CON LICENCIA BAJO EL SUBCAPÍTULO H, CAPÍTULO 411 DEL CÓDIGO DE GOBIERNO (LEY DE LICENCIAS DE PISTOLAS), NO PUEDE ENTRAR EN ESTA PROPIEDAD CON UNA PISTOLA VISIBLE.**

**THE BOARD OF ADJUSTMENT OF THE CITY OF OVILLA, TEXAS, RESERVES THE RIGHT TO MEET IN A CLOSED SESSION ON ANY ITEM LISTED ON THIS AGENDA SHOULD THE NEED ARISE, PURSUANT TO AUTHORIZATION BY TEXAS GOVERNMENT CODE, SECTIONS 551.071 (CONSULTATION WITH ATTORNEY).**

**PLEASE SILENCE ALL CELL PHONES, AND OTHER ELECTRONIC EQUIPMENT WHILE THE ZONING BOARD OF ADJUSTMENT MEETING IS IN SESSION.**

1.09.2023

## Public Hearing P1

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To  
Board of Adjustment

From  
Staff

CC  
Applicable Departments

**P1**     **BOA 23.01 – Public Hearing** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Zoning, 30.3 ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS; PLACEMENT filed by Fortino Pineda for a residential variance for an accessory building with the main opening/doors facing the front of the property located at the residence of 109 Elmwood Dr, Ovilla, TX 75154.

*a. PRESENTATION* – Review by staff.

*b. PUBLIC HEARING* - Receive comments from those wishing to speak.

**STAFF COMMENT:** Applicant/owner of 109 Elmwood Dr submitted an application to place an accessory building with the main opening/doors facing the front of the property. According to the applicant, the property layout does not allow enough room for side facing or rear facing doors within the current zoning rules.

**NOTICES:** Legal notice was posted in the city's newspaper of record. Thirteen certified letters were mailed according to LGC requirements. Two responses were received in favor of the applicant's proposed door placement. None received to date against the variance request.

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**City of Ovilla**

Tel 972-617-7262

105 S. Cockrell Hill Road  
Ovilla, Texas 75154

[www.cityofovilla.org](http://www.cityofovilla.org)



**PUBLIC HEARING  
CITY OF OVILLA**

The Board of Adjustment of the City of Ovilla, Texas will hold a public hearing to discuss a request for a variance by Fortino Pineda. The property is located at 109 Elmwood Dr, Ovilla Texas 75154.

- The request is regarding a residential variance for an accessory building with the main opening/doors facing the front of the property located at the residence of 109 Elmwood Dr, Ovilla, TX 75154. (Chapter 14, Section 30.3 Accessory and Residential Accessory Buildings; Placement, Ovilla Code of Ordinances.)

The Public hearing will be held on Monday, January 9<sup>th</sup>, 2023 at 6:00 p.m. located in the City Council Chambers, 105 S. Cockrell Hill Rd. Ovilla Texas 75154.

All persons interested in the above-referenced request are invited to attend the public hearing and to provide their comments at that time. For more information or to submit comments prior to the hearing please contact Emily Starkey, 972-617-7262, [estarkey@cityofovilla.org](mailto:estarkey@cityofovilla.org)



Parcel Identifier	Property Address	Owner Name	Mailing Street	Mailing City,State,Ztip
167777	SHADOWWOOD TRL	FITZGERALD BRIAN M & BRAD A W FITZGERALD	SHADOWWOOD TRL	OVILLA ,TX 75154
168158	ELMWOOD DR	JURGENS,TAYLOR A & HALEY E	ELMWOOD DR	OVILLA ,TX 75154
167775	SHADOWWOOD TRL	SCHERER,ERIN C & JONATHAN B	SHADOWWOOD TRL	OVILLA ,TX 75154
168095	WILLOW CREEK CT	JOHNSON,CHARLES JR & BETTY	WILLOW CREEK CT	OVILLA ,TX 75154
168165	ELMWOOD DR	CLARKSON,OZIAS	ELMWOOD DR	OVILLA ,TX 75154
168164	ELMWOOD DR	HEFLIN,ANNELIE	ELMWOOD DR	OVILLA ,TX 75154
167778	SHADOWWOOD TRL	NEWMAN,CAROL G	SHADOWWOOD TRL	OVILLA ,TX 75154
168096	WILLOW CREEK CT	D,SANDERS CINDY & GERALD JR	WILLOW CREEK CT	OVILLA ,TX 75154
167784	SHADOWWOOD TRL	BELLOMY LIVING TRUST/RANDY A & LINDA R BELLOMY	W MAIN #123	OVILLA ,TX 75154
168163	ELMWOOD DR	LADUE,DANIEL P & STEPHANIE	ELMWOOD DR	OVILLA ,TX 75154
167776	SHADOWWOOD TRL	HARWELL,CAROLYN A	SHADOWWOOD TRL	OVILLA ,TX 75154
167779	SHADOWWOOD TRL	WHIRLEY CARL & JEAN REVOCABLE LIVING TRUST/CARL & JEAN WHIRLEY TRUSTEES	SHADOWWOOD TRL	OVILLA ,TX 75154
168157	ELMWOOD DR	JURGENS,TAYLOR	ELMWOOD DR	OVILLA ,TX 75154

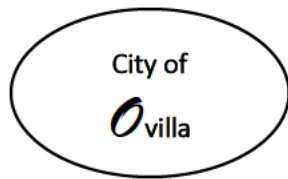
**APPLICANT**

109 ELMWOOD DR

FORTINO PINEDA

109 ELMWOOD

OVILLA, TX 75154



# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

ITEM: 1

DISCUSSION & ACTION  
Regular Meeting Date: January 9, 2023

### Attachments:

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

### Agenda Item / Topic:

**ITEM 1.** ***DISCUSSION/ACTION** – Consideration of and action on an appeal to the Ovilla Code of Ordinances, Chapter 14, Zoning, 30.3 ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS: PLACEMENT filed by Fortino Pineda for a residential variance for an accessory building with the main opening/doors facing the front of the property located at the residence of 109 Elmwood Dr, Ovilla, TX 75154.*

### Discussion / Justification:

**APPLICANT:** Fortino Pineda  
**LOCATION:** 109 Elmwood Dr  
**ZONING:** RE Residential (1 Ac.)

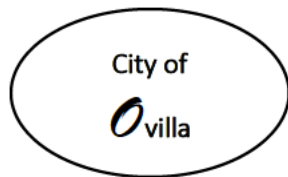
### Applicant's Proposal:

Applicant/owner of 109 Elmwood Dr submitted an application to place an accessory building with the main opening/doors facing the front of the property. According to the applicant, the property layout does not allow enough room for side facing or rear facing doors within the current zoning rules.

**NOTICES:** Legal notice was posted in the city's newspaper of record. Thirteen certified letters were mailed according to LGC requirements. Two responses were received in favor of the applicant's proposed door placement. None received to date against the variance request.

**BOARD REVIEW:** The Ovilla Code of Ordinances, Chapter 14, Section 30.3, ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS: PLACEMENT, states:

C. Angles. The main opening or door of the residential accessory building must face at a ninety (90°) degree or one hundred eighty (180°) degree angle from the front of the main building; provided however, that barn doors may face forward if [if] the barn is a minimum of two hundred (200') feet off the front lot line.



**BOARD DISCUSSION:** The Board is allowed to grant a **Variance** under certain circumstances & after review of the **Findings of Fact** form.

**DISCUSSION/ACTION** – Consideration of requested **Residential Variance by Fortino Pineda**.

Fact of Findings of the BOA/Council are outlined in accordance with Section 211.009 of the TX Local Government Code. These five items are necessary to review

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.

**Sample Motion(s):**

***"I MAKE A MOTION THAT THE BOA/CITY COUNCIL GRANT & APPROVE/DENY THE RESIDENTIAL VARIANCE TO FORTINO PINEDA TO PLACE AN ACCESSORY BUILDING WITH THE MAIN OPENING/DOORS FACING THE FRONT OF THE PROPERTY LOCATED AT 109 ELMWOOD DRIVE, OVILLA, TX 75154 as presented."***



# Accessory Building

Permit Checklist

DATE 12-2-22

OWNER Fortino Pineda

ADDRESS 109 Elmwood Drive

- |   |                    |               |
|---|--------------------|---------------|
| 1. Permit Signed by property owner          | <del>Yes</del>     | No            |
| 2. Plot plan with survey stamp              | <del>Yes</del>     | No            |
| 3. Use of Building                          | <u>Storage</u>     |               |
| 4. Height of building                       | <u>16'</u>         |               |
| 5. Main Door Facing 90' or 180'             | Yes                | <del>No</del> |
| 6. Location of Building                     |                    |               |
| A) 100 feet from front property line        | <del>Yes</del>     | No            |
| B) 5 feet from side property line           | <del>Yes</del>     | No            |
| C) Behind Rear Plane of House               | <del>Yes</del>     | No            |
| 7. Septic tank or aerobic spray field       | Yes                | <del>No</del> |
| 8. Electrical                               | Yes                | <del>No</del> |
| 9. Plumbing                                 | Yes                | <del>No</del> |
| 10. Number of existing Building on Property | <u>0</u>           |               |
| 11. Total Number Allowed                    | <u>3</u>           |               |
| 12. Size of Property                        | <u>1.17 Acre</u>   |               |
| 13. Total Sq Footage Requested              | <u>1250 Sq Ft.</u> |               |
| 14. Total Square Footage Allowed            | <u>1274 Sq Ft</u>  |               |

Board of Adjustment Variance Required ~~Yes~~ No

Approved ~~Denied~~ Reason Location of Main Door  
Chapter 14  
30.3 C

DATE 12-2-22

NAME Mike Dooly

## Chapter 14

### § 30 Accessory and Residential Accessory Buildings.

#### 30.1

##### Generally.

No residential accessory building shall be permitted until a dwelling unit exists on the lot.

#### 30.2

##### Permit Required.

A person commits an offense if a person constructs or permits to be constructed an accessory building without a building permit. Accessory buildings that exceed sixty (60) square feet and/or seven feet in height shall require a building permit.

#### 30.3

##### Placement.

##### A.

##### Front Setback.

A residential accessory building must be located completely behind the rear plane of the main dwelling.

##### B.

##### Other Setbacks.

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

##### C.

##### Angles.

The main opening or door of the residential accessory building must face at a ninety (90°) degree or one hundred and eighty (180°) degree angle from the front of the main building; provided however, that barn doors may face forward it [if] the barn is a minimum of two hundred (200') feet off the front lot line.





# Residential Building Permit Application

## City of Ovilla

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

<b>Building Permit #</b>	2022-0611	<b>Valuation:</b>	\$0.00
<b>Zoning:</b>	RE	<b>Valuation w/</b>	\$0.00
		<b>Land:</b>	

<b>Project Address:</b>	109 ELMWOOD DR	
<b>Lot:</b> 16	<b>Block:</b> C	<b>Subdivision:</b>

### Project Description:

New SFR	Flatwork
Plumbing/Electrical	Accessory Building Yes
Swimming Pool	Sprinkler
SFR Remodel/Addition	Fence
Roof	Mechanical
Other	Specify Other:

<b>Proposed Use:</b>	ACCESSORY BUILDING
<b>Description of Work:</b>	STORAGE AREA 35 X 30 STORAGE

### Area Square Feet:

<b>Living:</b>	<b>Garage:</b>	<b>Covered Porch:</b>
<b>Total:</b> 0.00		
<b># of Stories:</b>		

### Homeowner Details

**Name:** FORTINO PINEDA  
**Address:** [REDACTED] IRVING, TX 75060  
**Phone #** [REDACTED] **Email:** [REDACTED]

### Applicant Details

**Applicant Type:** Owner  
**Name:** FORTINO PINEDA  
**Address:** 109 ELMWOOD DR OVILLA, TX 75154  
**Phone #** [REDACTED] **Email:** [REDACTED]

**General Contractor Details**

License #

Company:

Name:

Phone # Email:

**Mechanical Contractor Details**

License #

Company:

Name:

Phone # Email:

**Electrical Contractor Details**

License #

Company:

Name:

Phone # Email:

**Plumber/Irrigator Details:**

License #

Company:

Name:

Phone # Email:

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

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

Plan Review Fee: \$0.00  
Building Permit Fee: \$40.00  
Park Impact Fee: \$0.00  
Capital Recovery Fee: \$0.00  
Fire Meter: \$0.00  
Water Meter Cost: \$0.00  
Water Impact: \$0.00  
Sewer Connection Fee: \$0.00  
Sewer Impact: \$0.00

Total Fees: \$40.00  
Issued Date:  
Expiry Date:  
Issued By:  
BV Project #





# Building Permit

## City of Ovilla

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

**Permit No.** 2022-0611

**Location:** 109 ELMWOOD DR

**Description:** STORAGE AREA 35 X 30 STORAGE

**Owner:** FORTINO PINEDA

**Date Issued:**

**Building Inspector:** \_\_\_\_\_

**This Permit To Be Posted In Conspicuous Place On Site**

# 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: <u>2022-0611</u>		Valuation: _____
Zoning: _____		Valuation w/land: _____
Project Address: <u>109 Elmwood Dr Ovilla, TX 75154</u>		
Lot: _____	Subdivision: _____	
<b>Project Description:</b>		
NEW SFR <input checked="" type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: _____
PLUMBING/ELECTRICAL <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>
SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input checked="" type="checkbox"/>	FENCE <input type="checkbox"/>
Proposed Use: <u>Storage Area</u>		
Description of Work: <u>35x30 Storage</u>		
Area Square Feet: _____		
Living: _____	Garage: _____	Covered Porch: _____
Total: _____		Number of stories: _____

Homeowner's name: <u>Fortino Pineda</u>			
Address: <u>109 Elmwood Dr Ovilla, TX 75154</u>			
Phone Number: <u>N/A</u>	Home Number <u>N/A</u>	Mobile Number: <span style="background-color: black; color: black;">[REDACTED]</span>	

Contractor Type	Contact Person	Phone Number	Contractor License Number
General Contractor	<u>Fortino Pineda</u>	<span style="background-color: black; color: black;">[REDACTED]</span>	
Mechanical Contractor			
Electrical Contractor			
Plumber/Irrigator			

☒ 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: Fortino P. Date: \_\_\_\_\_

### OFFICE USE ONLY:

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

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

Receipt # \_\_\_\_\_

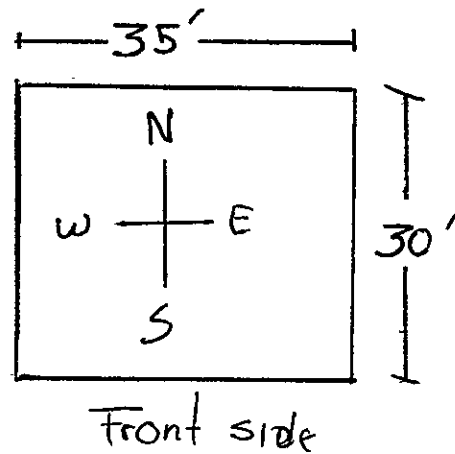
Total Fees: \_\_\_\_\_  
Issued Date: \_\_\_\_\_  
**Expires: 180 Days**  
Issued By: \_\_\_\_\_

BV Project # \_\_\_\_\_

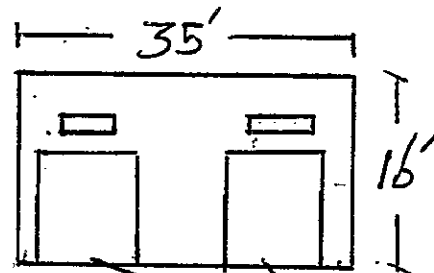
- 109 ELMWOOD DR  
Ovilla, TX 75154

- METAL BUILDING GARAGE

Top view

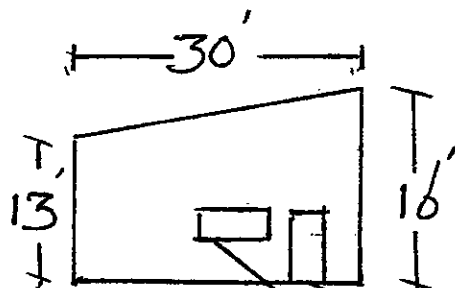


Front view

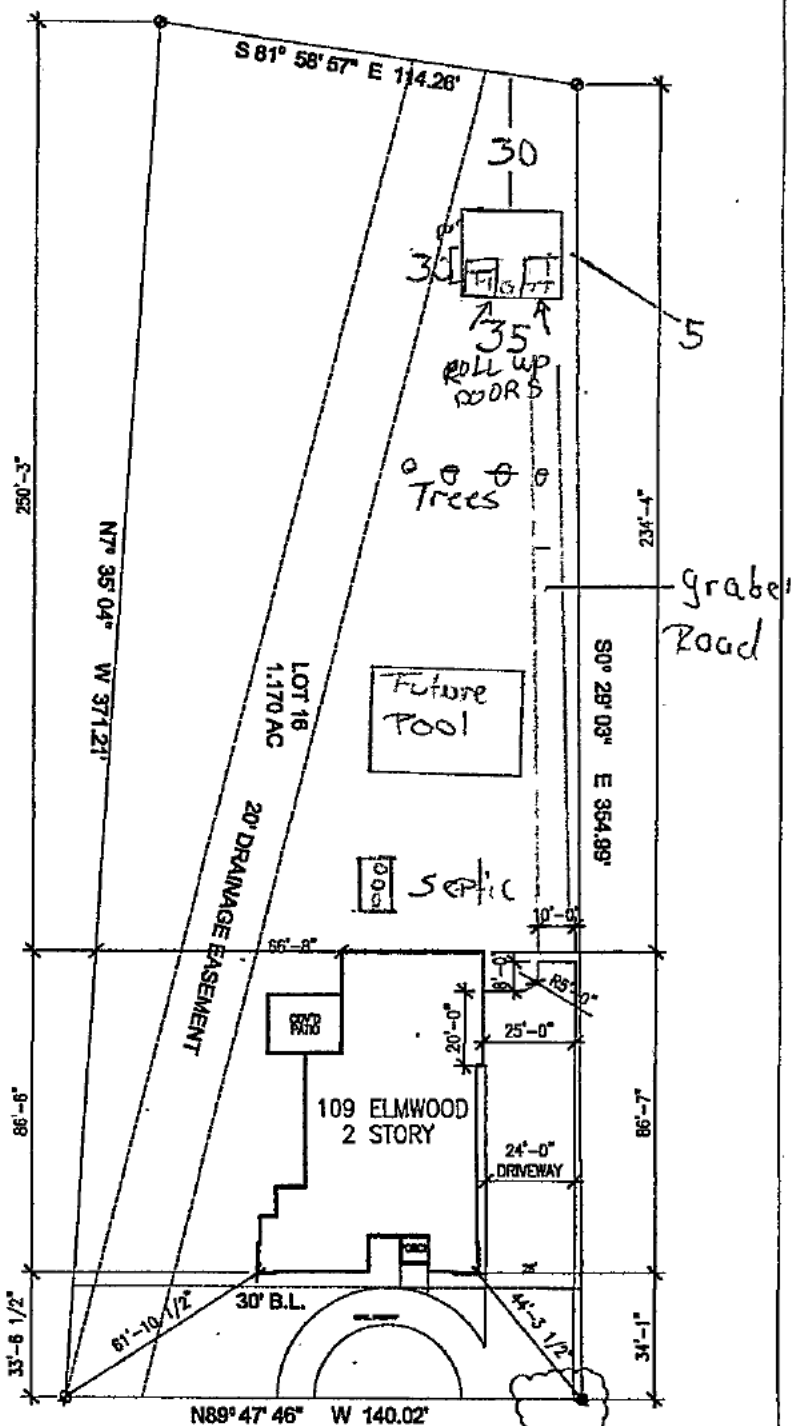


10' x 12' Roll up Doors

Side view



walk door  
window



#### General Notes:

1. The purpose of this plan is to show the proposed building footprint as defined by the notes and bounds of the recorded plot.
2. Dimensions, setbacks, easements, plan selection, and any other information shown here in shall be verified at permitting and prior to construction for accuracy and compliance with all applicable codes and ordinances.
3. Builder is solely responsible for ensuring that the footprint is contained within the prepared building pad. The building pad shall be set high enough to allow for adequate drainage.
4. All calculations are approximate. They must be verified prior to permitting, purchasing, and/or construction.

#### Lot Coverage Calculations:

Lot Area	45998 Sq. Ft.
Slab Area	4263 Sq. Ft.
Flatwork Area	3538 Sq. Ft.
Coverage Ratio	11 %

#### Legend:

— — — — —	Fence
— — — — —	Lot
— — — — —	Building Line
— — — — —	Easement

NOTE: NO CHANGES KEEP EXISTING FOOTPRINT.

SUBDIVISION PLAT  
WILLOW CREEK ESTATES

Lot: 16 Blk: C

109 ELMWOOD DRIVE  
OVIALLA, TEXAS

Plan No.

PLOT PLAN  
ENGINEERED FOR:

109 ELMWOOD DRIVE  
OVIALLA, TX

DATE 3/8/20

DRN J.G.

CHK'D S.G.

Scale: 1"=40'

PAGE 1 of 1

COPYRIGHT © DATE 5/5/17

LOT 15

LOT 8

LOT 16  
1.170 AC.

NOTE: THE FOLLOWING EASEMENTS CONTAIN INSUFFICIENT  
INFORMATION TO LOCATE ON OR OFF SUBJECT PROPERTY:  
VOL.373, PG.132 AND VOL.478, PG.272; D.R.E.C.T.

LOT 9

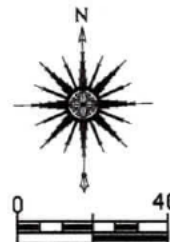
VACANT LOT  
109 ELMWOOD DRIVE

[illegible]

ACCEPTED BY:

**BASIS OF BEARING**  
1. BEARINGS SHOWN HEREON ARE REFERENCES TO TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE, AND ARE BASED ON THE NORTH AMERICAN DATUM OF 1983, 2011 ADJUSTMENT.  
2. ALL AREAS SHOWN HEREON ARE CALCULATED BASED ON SURFACE MEASUREMENTS  
3. ALL DISTANCES ARE MEASURED IN US SURVEY FEET.

LOT 10



L=25.53' N89° 47' 46" W 140.02'  
R=1207.5'  
ELMWOOD DRIVE  
(60' ROW)

I, Jewell N. Voodors, Registered Professional Land Surveyor of the State of Texas, do certify that this survey plat is true and correct representation of the property shown hereon as determined by or under the direction of the grantor.

The plat hereon is a representation of the property, as determined by or under the direction of the grantor, on the ground survey, the lines and dimensions of said property being as indicated by the plat;

The size, location and type of above ground improvements are as shown. Corner monuments are as shown on survey.

EXCEPT AS SHOWN ON SURVEY, THERE ARE NO ABOVE GROUND ENCROACHMENTS

This Survey was performed exclusively for the parties shown hereon and is licensed for a single use. This Survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright Law and International Treaties. All rights reserved. Do not make illegal copies.

Jennilyn D. Woodward

RPLS #539A

THIS SURVEY VALID WITH EMERGED SEAL ONLY





























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

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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 23.01



## 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.

I live on a lot that has an easement in the middle, which that leaves us with less amount of property to build a storage shed on. There's also a septic tank that is located back. The easement needs to come thru to continue the water flow.

**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.

It is an issue building the storage shed facing sideways because there's not enough room unless the shed is facing towards the front of the main street. To make sure the storage shed is within zoning ordinance rules.

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

This is the only right way to build the storage shed to avoid a major problem causing a water flow backup with the easement.

**Condition 4:** The board shall further make a finding that the reason set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

We are doing everything as required. The only reason we need to do it this way is to keep the lot easement flow that way it is now.



**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.

Every corner house and some houses in the neighborhood has their Garage facing the main street. This is not going to be the only house with a storage shed facing the main street.

**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.

The storage shed will be build meeting the requirements if variance is approve.

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 23.01

## 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. 16

Property Address 109 Elmwood Drive

Block No. C

Ovilla, Tx 75154

Zoning RE

The Applicant, Fortino Pineda, of Ellis County, requested that the Ovilla Zoning Board of Adjustment grant the following variance to Article \_\_\_\_\_, Chapter 14, Section 30.3C of the Ovilla Zoning Ordinance. Please state in detail what type of variance you are seeking, attach additional sheets if necessary.

Seeking to be able to build a storage shed with doors facing the main street due to easement lot line location and septic tank location. We are asking for approval on this variance if possible.

Has a previously appeal been filed on this property?

YES / ☒ NO

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



• Case No. BOA 23.01

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/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 Fortino Pineda

Mailing Address 109 Elmwood Dr.  
Ovilla, Tx 75154

Telephone (Hm) [REDACTED]

Telephone (Wk) [REDACTED]

Email [REDACTED]

Fortino Pineda  
Applicant's signature

12/2/22  
Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



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

- Case No. BOA 23.01

\*\*\*\*\*

OFFICE USE ONLY

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

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

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



City of Ovilla  
105 Cockrell Hill Rd.  
Ovilla, TX 75154

Receipt #: 14986  
User: Cathy Gaeta  
Payment Date: 12/2/2022  
Batch: 79795 - CASH BOX 12/02/22

100-4000490 Variance Application  
General Fund Deposits

BOA VARIANCE APPLICATION/109 ELMWOOD STORAGE/FORTINO PINEDA

Amount Due: \$200.00  
Applied: \$200.00  
Balance: \$0.00

12/2/2022

Check #: 1100

Check: \$200.00

Applied: \$200.00  
Change: \$0.00



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

**Applicant:** FORTINO PINEDA  
**Address:** 109 ELMWOOD DR.

**Case Number:** BOA 23.01

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with , Chapter 14, Zoning, 30.3 ACCESSORY AND RESIDENTIAL ACCESSORY BUILDINGS; 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
RICHARD DORMIER, MAYOR			
KIMBERLY CASE, PL1			
DEAN OBERG, PL2			
DAVID GRIFFIN, PL3			
DOUG HUNT, PL4			
BRAD PILAND, PL5			

**TOTALS:**

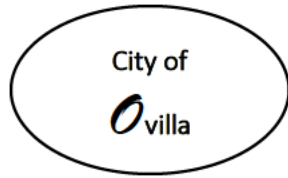
\_\_\_ **FOR**  
\_\_\_ **AGAINST**  
\_\_\_ **ABSTAIN**

**The variance is hereby:** \_\_\_\_\_ **granted** \_\_\_\_\_ **denied**

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

\_\_\_\_\_  
**Date**

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



# Ovilla Zoning Board of Adjustment

## AGENDA ITEM REPORT

**ITEM: 2**

### DISCUSSION & ACTION

Regular Meeting Date: January 9, 2023

<b>Attachments:</b>	
None	
<b>Agenda Item / Topic:</b>	
<b>ITEM 2.</b>	DISCUSSION/ACTION – Consideration of any item(s) pulled from the Consent Agenda above for individual consideration and action.
<b>Discussion / Justification:</b>	
N/A	
<b>Sample Motion(s):</b>	
N/A	