

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

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.

City of Ovilla

Tel 972-617-7262

105 S. Cockrell Hill Road
Ovilla, Texas 75154

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 9th, 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

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
		BELLOMY LIVING TRUST/RANDY A & LINDA R BELLOMY		
167784	■ SHADOWWOOD TRL	LADUE,DANIEL P & STEPHANIE	■ W MAIN #123	OVILLA ,TX 75154
168163	■ ELMWOOD DR		■ ELMWOOD DR	OVILLA ,TX 75154
167776	■ SHADOWWOOD TRL	HARWELL,CAROLYN A	■ SHADOWWOOD TRL	OVILLA ,TX 75154
		WHIRLEY CARL & JEAN REVOCABLE LIVING TRUST/CARL & JEAN WHIRLEY TRUSTEES		
167779	■ SHADOWWOOD TRL		■ 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 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 12-2-22OWNER Fortino PinedaADDRESS 109 Elmwood Drive

1. Permit Signed by property owner	Yes	No
2. Plot plan with survey stamp	Yes	No
3. Use of Building	<u>Storage</u>	
4. Height of building	<u>16'</u>	
5. Main Door Facing 90' or 180'	Yes	No
6. Location of Building		
A) 100 feet from front property line	Yes	No
B) 5 feet from side property line	Yes	No
C) Behind Rear Plane of House	Yes	No
7. Septic tank or aerobic spray field	Yes	No
8. Electrical	Yes	No
9. Plumbing	Yes	No
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>1050 59 ft.</u>	
14. Total Square Footage Allowed	<u>1274 59 ft</u>	

Board of Adjustment Variance Required Yes No

Approved Denied Reason Location of Main Door
Chapter 14
30.3 C

DATE 12-2-22NAME 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 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

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

Project Address: 109 ELMWOOD DR
Lot: 16 Block: C Subdivision:

Project Description:

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

Proposed Use: ACCESSORY BUILDING
Description of Work: STORAGE AREA 35 X 30 STORAGE

Area Square Feet:

Living:	Garage:	Covered Porch:
Total: 0.00		
# of Stories:		

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:**

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

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

Plan Review Fee: \$0.00**Total Fees:** \$40.00**Building Permit Fee:** \$40.00**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

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:

2022-0611

Valuation:

Zoning:

Valuation w/land:

Project Address:

109 Elmwood Dr Ovilla, TX 75154

Lot:

Subdivision:

Project Description:

NEW SFR



SFR REMODEL/ADDITION



SPECIFY OTHER:

PLUMBING/ELECTRICAL



FLATWORK



SPRINKLER



SWIMMING POOL



ACCESSORY BUILDING



FENCE



Proposed Use:

Storage Area

Description of Work:

35x30 Storage

Area Square Feet:

Living:

Garage:

Covered

Porch:

Total:

Number of stories:

Homeowner's name:

Fortino Pineda

Address:

109 Elmwood Dr Ovilla, TX 75154

Phone Number:

N/A

Home Number N/A

Mobile Number:

General Contractor	Contact Person	Phone Number	Contractor License Number
Fortino Pineda	Fortino Pineda	[REDACTED]	
Mechanical Contractor	Contact Person	Phone Number	Contractor License Number
Electrical Contractor	Contact Person	Phone Number	Contractor License Number
Plumber/Irrigator	Contact Person	Phone Number	Contractor License Number

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

***NOTE ** While your project may be approved and permitted by the City, you should check your deed restrictions and HOA requirements before applying for a permit. Obtaining a permit from the City does not ensure your right to commence a project. The City does not reference or enforce HOA restrictions and/or requirements.**

Signature of Applicant:

Fortino P.

Date:

OFFICE USE ONLY:

Approved by:

Date approved:

City Manager:

Date approved:

Plan Review Fee:

Receipt #

Total Fees:

Building Permit Fee:

Issued Date:

Park Impact Fee:

Expires:

180 Days

Capital Recovery Fee:

Issued By:

Fire Meter:

Water Meter Cost:

BV Project #

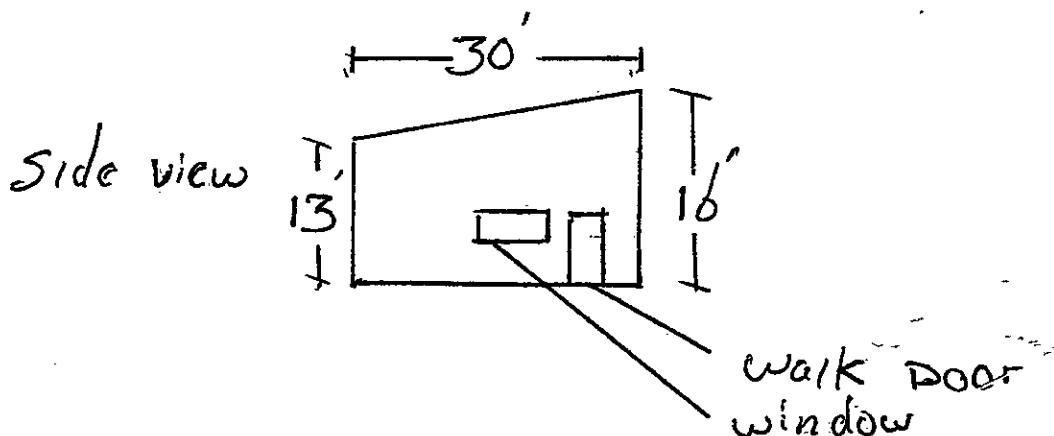
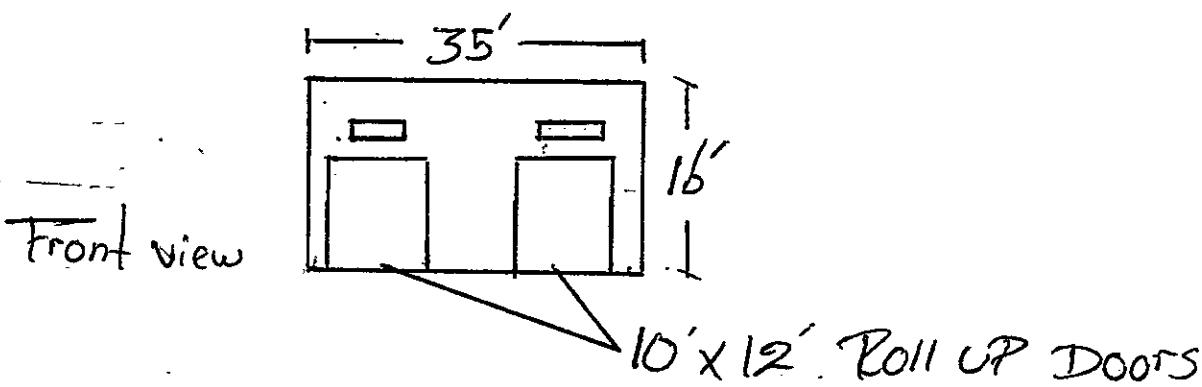
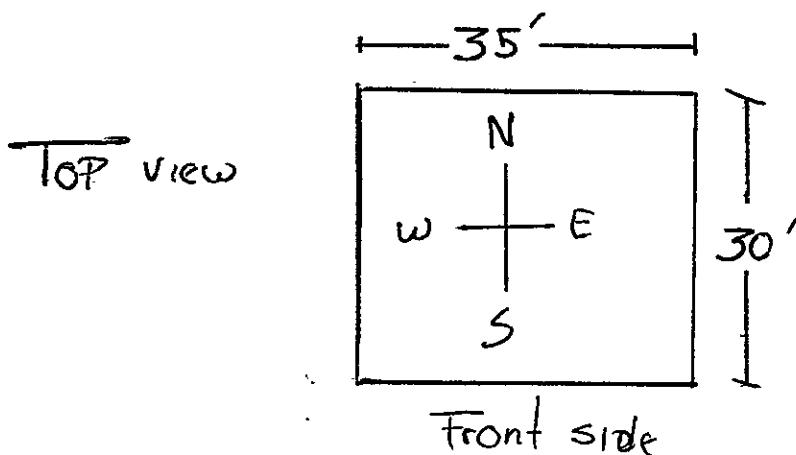
Water Impact:

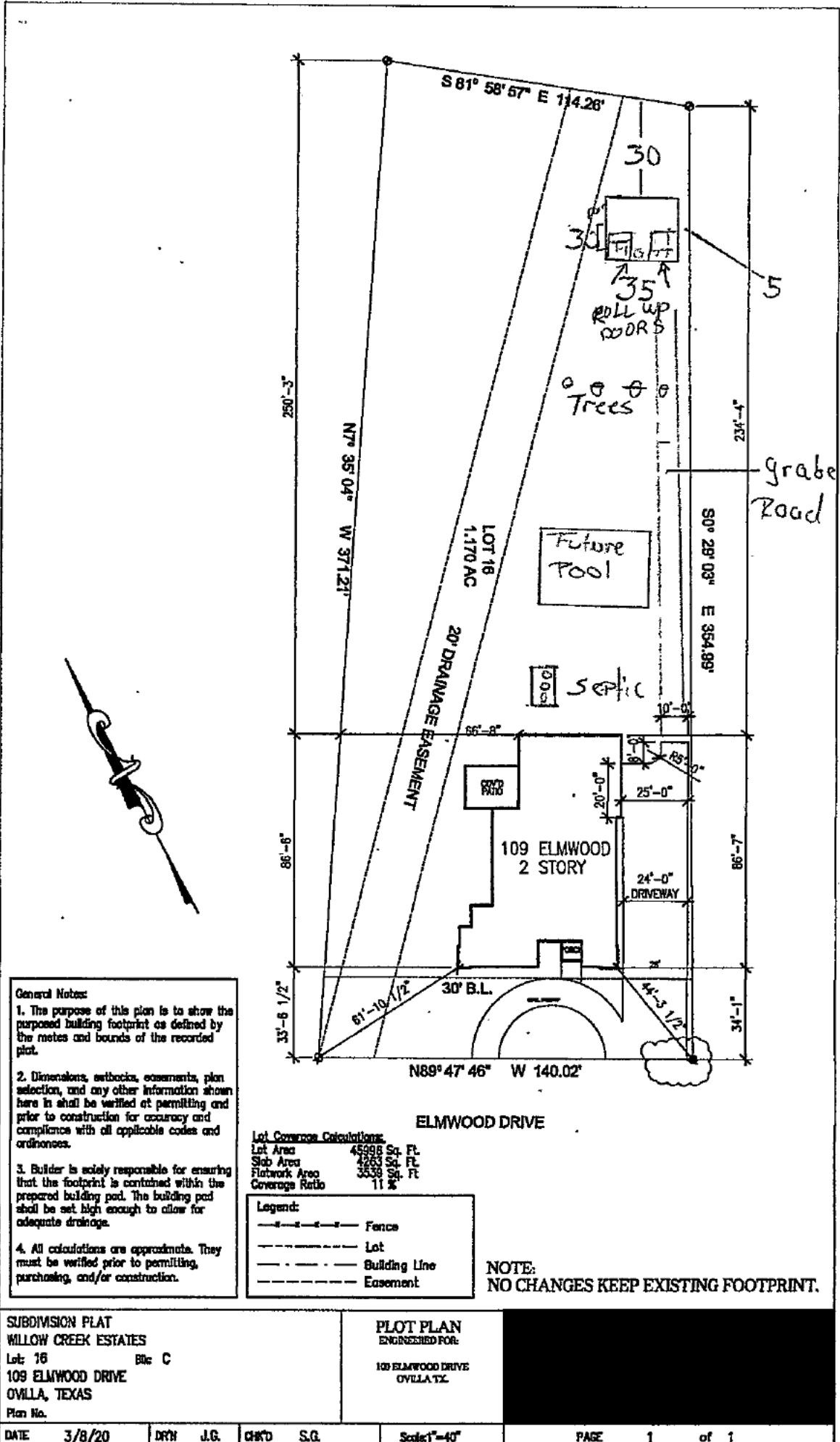
Sewer Connection Fee:

Sewer Impact:

- 109 ELMWOOD DR
OILLA, TX 75154

- METAL BUILDING GARAGE





SURVEY PLAT

COPYRIGHT © DATE

5/5/17

BEING LOT 16, BLOCK C, OF WILLOW CREEK ESTATES ADDITION, SECOND SECTION, AN ADDITION TO THE CITY OF OLVILLA, ELLIS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 4, PAGE 23, NOW CABINET A, SLIDE 638, PLAT RECORDS OF ELLIS COUNTY, TEXAS.

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.

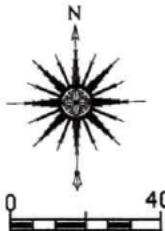
N 7° 35' 04" W 374.31'

VACANT LOT
109 ELMWOOD DRIVE

54.99'
LOT 109

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.



L=25.53' N89° 47' 46" W 140.02'
R=1207.5' ELMWOOD DRIVE
(N89° 08' W 140° MAP)
(50' ROW)

1. **Jennilyn B. Woodburn, Registered Professional Land Surveyor of the State of Texas, do certify that this Survey Plat is a true and correct representation of the property shown herein as determined on the ground.**
The plat herein is a representation of the property, as determined by the survey 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 on the Survey Plat. **NO OTHER SURVEY HAS BEEN MADE.** EXCEPT AS SHOWN ON SURVEY, THERE ARE NO ABOVE GROUND PROTRUSIONS OR 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 U.S. Copyright Law.















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

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

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

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

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

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

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

Case No. BOA 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. 6

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 tasking 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 P. 12/2/22

Applicant's signature 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

	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

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