

**AGENDA**  
**Board of Adjustment Meeting**  
**105 S. Cockrell Hill Road, Ovilla, Texas 75154**  
**August 18, 2014**

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, August 18, 2014 at 7:00 P.M. at 105 S. Cockrell Hill Road, Ovilla, Texas, 75154** for the purpose of considering the listed item(s). *The Board of Adjustment of the City of Ovilla, Texas, reserves the right to meet in a closed session pursuant to authorization by Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations).*

**Call to Order**

♦Pledge of Allegiance

**Comments, Presentations and Reports and Appointments**

♦ Mayor Dormier will administer Statement of Oath for incumbent Board of Adjustment Member  
Jeanne Ham PL6

**Consent Items**

♦ Minutes of the July 21, 2014 BOA 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.**      **BOA201314.011- Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS; filed by Mr. Travis Noice for a residential variance to construct a fence beyond the building line at his residence at 300 Ovilla Oaks.  
**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Mr. Travis Noice.

**ITEM 2.**      **BOA201314.012- Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 3, Article 3.05 Fences; Section 3.05.006 TYPES OF FENCES AND CONSTRUCTION; filed by Mr. Kenneth Hanks for a residential variance to construct a metal fence at his residence at 821 Cockrell Hill Rd.  
**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Mr. Kenneth Hanks.

***Tabled Items from the July 21, 2014 Regular BOA Meeting:***

**ITEM 1. DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Zoning Board of Adjustment.

*Consider motion to remove item from table-  
Consider Action on Item.*

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

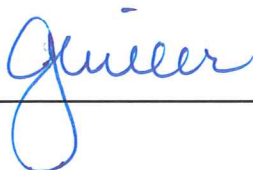
*Consider motion to remove item from table-  
Consider Action on Item.*

**Zoning Board of Adjustment Requests for Future Items**

*No action or in-depth discussion may occur during this item. It is intended to provide an opportunity for the Board to inform each other and the public about events and situations that are of general interest.*

**Adjournment**

This is to certify that a copy of the Notice of the **Ovilla Board of Adjustment Meeting** scheduled for **August 18, 2014 @ 7:00 P.M.**, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, Texas, on this 15th day of August 2014, prior to 6:00 p.m.



Glennell Miller  
Board Secretary

**IF YOU OR YOUR REPRESENTATIVE HAS A DISABILITY THAT REQUIRES SPECIAL ARRANGEMENTS AND YOU PLAN TO ATTEND THIS PUBLIC MEETING, PLEASE CONTACT THE CITY SECRETARY AT 972-617-7262 WITHIN 24 HOURS OF THE MEETING. REASONABLE ACCOMMODATIONS WILL BE MADE TO MEET YOUR NEEDS AT THE MEETING. PLEASE SILENCE ALL PAGERS, CELL PHONES, AND OTHER ELECTRONIC EQUIPMENT WHILE THE ZONING BOARD OF ADJUSTMENT MEETING IS IN SESSION.**

**CERTIFICATION**

I hereby certify that this **Ovilla Board of Adjustment Agenda** was removed from the **City Hall Bulletin Board**, located at **105 S. Cockrell Hill Road, Ovilla, TX 75154**, a place accessible to the public at all times on \_\_\_\_\_ day of \_\_\_\_\_ 2014, at \_\_\_\_\_ am/pm, after having been posted for at least 72 continuous hours preceding the scheduled time of the posted meeting. \_\_\_\_\_ Glennell Miller, Asst. to the City Secretary

**CITY OF OVILLA MINUTES**  
***Monday, July 21, 2014***  
***Regular Board of Adjustment Meeting***

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Vice-Chair Barbara Betik called a Regular Meeting of the Ovilla Board of Adjustment to order at 7:15 p.m. with the following BOA members present, thus constituting a quorum:

Stephanie Albright	Board Member
Jamie Hilburn	Board Member
Richard Ware	Board Member
Carol Richtsmeier	Board Member (Alternate)

Absent:	Patricia Rarick	Board Member
	Jeanne Ham	Board Member (Alternate)

Code Enforcement Officer Mike Dooly was present.

PL5 Ware called the role of those present, noting PL6 Jeanne Ham (Alternate) and PL1 Patricia Rarick absent, and declared a quorum. Vice Chair Barbara Betik led the Pledge of Allegiance.

Vice Chair Betik outlined the evening's agenda and briefed those present on board procedures.

**COMMENTS, PRESENTATIONS, REPORTS AND/OR APPOINTMENTS**

Mayor Dormier administered the Statements of Oath for new and renewing BOA members.

- Stephanie Albright PL4 (renewal)
  - Jamie Hilburn PL2 (new)
- (Alt. Member Jeanne Ham, PL6 was also due for renewal, and was noted absent.)

After Oaths were performed, Mayor Dormier thanked the Board of Adjustment Members for their continued service to the City of Ovilla.

**CONSENT ITEMS**

- Minutes of the May, 2014 BOA Meeting

PL7 Richtsmeier made the motion that the BOA approves the consent items as presented.

PL4 Albright seconded the motion.

PL6 Ham and PL1 Rarick were noted absent.

***VOTE: The motion carried 5-0, no opposition, no abstentions.***

**INDIVIDUAL CONSIDERATION**

**ITEM 1.      *DISCUSSION/ACTION*** – Consider nominations and appointment of Chair to the BOA.

The Board agreed to Table Item 1 until the next scheduled BOA meeting. Vice Chair Betik called for a motion on Item 1.

**CITY OF OVILLA MINUTES**  
**Monday, July 21, 2014**  
**Regular Board of Adjustment Meeting**

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PL4 Albright made the motion to table Item 1.

PL5 Ware seconded the motion.

***VOTE: The motion carried 5-0, no opposition, no abstentions.***

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

The Board agreed to Table Item 2 until the next scheduled BOA meeting. Vice Chair Betik called for a motion on Item 2.

PL4 Albright made the motion to table Item 2.

PL5 Ware seconded the motion.

***VOTE: The motion carried 5-0, no opposition, no abstentions.***

**PUBLIC HEARING**

**ITEM 3.        *BOA201314.009 - Public Hearing and Discussion*** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS filed by Mr. & Mrs. Halowec for a residential special exception to construct a fence with post/rails on the outside of their property at 118 Nob Hill Ln.

***Vice Chair Betik opened the Public Hearing at 7:19 p.m.***

***(Testimony that followed was under proper oath; City Representative)***

Code Enforcement Officer Mike Dooly gave a general description of the fence materials and placement, including the added security measure being built into the fence. There will be a 45° angle at the top of the fence making it harder climb. Officer Dooly let the Board know that there was one other fence with the rails/posts on the outside that is in their neighborhood.

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

Mrs. Lynn Halowec – 118 Nob Hill – Explained that her home backs up to an alley. She stated that the neighbors have fences with the rails on the outside, facing the alley, as well as hers. She had pictures for the Board, and went over the location of her home and fence placement. She read a letter from Joe Steiger, former president of the HOA for Ashburn Glen, which she says they contacted before building. She stated that he is an architect and he had said the fence was structurally sound.

***Vice Chair Betik asked that those speaking in support come forward:***

None

***Vice Chair Betik asked that those speaking in opposition come forward:***

None

***Rebuttal/Final Comments:***

Applicant stated that she would like the Board to consider the economic burden this would cause, if the fence was not approved.

***Vice Chair Betik closed the Public Hearing at 7:35 pm***

**CITY OF OVILLA MINUTES**  
**Monday, July 21, 2014**  
**Regular Board of Adjustment Meeting**

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**DISCUSSION/ACTION** – Consideration of requested **Special Exception** filed by Mr. & Mrs. Halowec.

The Board reviewed the criterion and completed the *Findings-of-Fact* form resulting in a positive outcome.

PL7 Richtsmeier made the motion that the BOA grants/approves the **Special Exception** requested in appeal 201314.009, by Mr. & Mrs. Halowec, as presented.

PL1 Albright seconded the motion.

PL5 Ware called a record vote.

**Record Vote:**

ALBRIGHT AYE

BETIK AYE

HILBURN AYE

WARE AYE

HAM ABSENT

RARICK ABSENT

RICHTSMEIER AYE

**VOTE: The motion carried unanimously.**

**ITEM 4. BOA201314.010 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 30.7 OTHER ACCESSORY BUILDINGS, filed by Mr. Tom Foster for a residential variance to construct an accessory building in excess of the allowed square feet on his property at 1908 Duncanville Rd.

**Vice Chair Betik opened the Public Hearing at 7:39 p.m.**

**(Testimony that followed was under proper oath; City Representative)**

Code Enforcement Officer Mike Dooly gave a general description of the property and he let the Board know the property is 10 acres of land. He also explained that the applicant wanted to build an "arena" type facility on the property and reiterated the code of ordinance for the size of the facility versus the size of the building being placed.

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

Mr. Tom Foster – 1908 Duncanville Rd. – Presented the Board with Power Point presentation, showing them all surrounding properties and his proposed plan.

**Vice Chair Betik asked that those speaking in support come forward:**

None

**Vice Chair Betik asked that those speaking in opposition come forward:**

None

**Rebuttal/Final Comments:**

Applicant thanked the Board for their time and consideration of his application.

**Acting Chair Betik closed the Public Hearing at 8:21 pm**

**DISCUSSION/ACTION** – Consideration of requested **Variance** filed by Mr. Tom Foster.

**CITY OF OVILLA MINUTES**  
**Monday, July 21, 2014**  
**Regular Board of Adjustment Meeting**

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The Board reviewed the criterion and completed the *Findings-of-Fact* form resulting in a positive outcome.

PL7 Richtsmeier made the motion that the BOA grants/approves the **Variance** requested in appeal 201314.010, by Mr. Tom Foster, as presented.

PL1 Albright seconded the motion.

PL5 Ware called a record vote.

**Record Vote:**

ALBRIGHT AYE  
BETIK AYE  
HILBURN AYE  
WARE AYE  
HAM ABSENT  
RARICK ABSENT  
RICHTSMEIER AYE

***VOTE: The motion carried unanimously.***

**Zoning Board of Adjustments Requests for Future Items**

N/A

**Adjournment**

There being no further business, Vice Chair Barbara Betik adjourned the meeting at 8:26 p.m.

ATTEST:

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Barbara Betik, Vice-Chair

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Glennell Miller, Board Secretary

***Approved August 18, 2014***

Attachment: Findings of Fact forms (2)



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

**Applicant:** Robert & Lynn Halowec  
**Address:** 118 Nob Hill Ln.

**Case Number:** BOA 201314.009

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, 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.	✓	

*All findings must be determined in the affirmative for the Special Exception to be granted.*

**BOA Members present, and upon a record vote of:**

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn	AYE		
Vice-Chair Barbara Betik	AYE		
Member Stephanie Albright	AYE		
Member Patricia Rarick	ABSENT		
Member Richard Ware	AYE		
Alt. Member Jeanne Ham	ABSENT		
Alt. Member Carol Richtsmeier	AYE		

**TOTALS:**

5  
0  
0

**FOR**  
**AGAINST**  
**ABSTAIN**

**The variance is hereby:**

✓ **granted**

                     **denied**

Barbara Betik  
**Presiding Officer of BOA**

**Attest:**                       
**Board Secretary**

7-21-14  
**DATE**

7-21-14  
**DATE**



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

**Applicant:** TOM FOSTER  
**Address:** 1908 DUNCAVILLE RD.

**Case Number:** BOA 201314.010

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14 Section 30.7 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.	✓	

*All findings must be determined in the affirmative for the variance to be granted.*

**BOA Members present, and upon a record vote of:**

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn	AYE		
Vice-Chair Barbara Betik	AYE		
Member Stephanie Albright	AYE		
Member Patricia Rarick	ABSENT		
Member Richard Ware	AYE		
Alt. Member Jeanne Ham	ABSENT		
Alt. Member Carol Richtsmeier	AYE		

**TOTALS:**

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

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

Barbara Betik  
Presiding Officer of BOA

7.21.14  
Date

Guillever  
Board Secretary

**BOARD OF ADJUSTMENT**

AGENDA ITEM NO: 1

August 18, 2014

**ITEM 1.**      **BOA201314.011 - *Public Hearing and Discussion*** of an appeal to the Ovilla Code of Ordinances, Chapter 14, Section 35.3 **FENCES IN RESIDENTIAL DISTRICTS** filed by Mr. Travis Noice for a residential variance to construct a fence beyond building line on his property at 300 Ovilla Oaks.

**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Mr. Travis Noice.

**APPLICANT:**                      Travis Noice  
**LOCATION:**                        300 Ovilla Oaks  
**ZONING:**                         RE Residential

**NOTICES:**                        One public notice listed in the Waxahachie Daily Light; 17 certified letters mailed, the City offices have not received any opposition notices.

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**APPLICANT'S PROPOSAL:**

Applicant requests to construct fence beyond the building line.

**DISCUSSION:**

The Ovilla Code of Ordinances, Chapter 14, Section 35.3, **FENCES IN RESIDENTIAL DISTRICTS** states:

(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.  
(Ordinance 2010.015 adopted 8/9/10)

**BOARD DISCUSSION:** The Board is allowed to grant a **variance** based on the outcome of the *Findings of Fact* form.

**STAFF RECOMMENDATION:** N/A

**SAMPLE MOTION:**

***"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO TRAVIS NOICE AT 300 OVILLA OAKS, TO BUILD A FENCE BEYOND BUILDING LINE ON HIS PROPERTY, AS PRESENTED IN BOA201314-011."***

## Residential Building Permit Application

Building Permit Number: <u>4564</u>		Valuation: <u>\$5,000.00</u>	
		Valuation w/land: _____	
Project Address: <u>300 OVILLA OAKS DR</u>			
Lot: _____	Block: _____	Subdivision: _____	
Project Description:			
NEW SFR <input type="checkbox"/>	SFR REMODEL/ADDITION <input type="checkbox"/>	SPECIFY OTHER: _____	
RE-INSPECTION/ADDITIONAL INSP <input type="checkbox"/>	FLATWORK <input type="checkbox"/>	SPRINKLER <input type="checkbox"/>	
SWIMMING POOL <input type="checkbox"/>	ACCESSORY BUILDING <input type="checkbox"/>	FENCE <input type="checkbox"/>	
Proposed Use: _____		<u>6' WOOD FENCE</u>	
Description of Work: _____			
Area Square Feet: _____		Covered _____	
Living: _____	Garage: _____	Porch: _____	Total: _____ Number of stories: _____

Name: <u>TRAVIS NOICE</u>	Contact Person: _____
Address: _____	
Phone Number: <u>210-995-0923</u>	Home Number: _____ Mobile Number: _____

<b>General Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>Mechanical Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>Electrical Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>Plumber/Irrigator</b>	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.

Signature of Applicant: M. D. Noice Date: 7/15/14

## OFFICE USE ONLY:

Approved by: _____	Date approved: _____	
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Plan Review Fee: \_\_\_\_\_  
 Building Permit Fee: \_\_\_\_\_  
 Park Impact Fee: \_\_\_\_\_  
 Capital Recovery Fee: \_\_\_\_\_  
 Fire Meter: \_\_\_\_\_  
 Water Meter Cost: \_\_\_\_\_  
 Water Impact: \_\_\_\_\_  
 Sewer Connection Fee: \_\_\_\_\_  
 Sewer Impact: \_\_\_\_\_  
 Fire Fee: \_\_\_\_\_

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

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

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

*Denied - Building Lien  
moving*

## CHAPTER 14

### ZONING

#### 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. (Ordinance 2010.015 adopted 8/9/10)



## 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 201314.011



## 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, corner lot

**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

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

no

**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

BOA 201314.011



**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

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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

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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.

BOA201314.011



Case No. BOA 201314. 011

## 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. 47

Property Address 300 Ovilla Oaks Dr.

Block No. B

Ovilla TX 75154

Zoning RE

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

*Seeking to build fence in front of building line.*

Has a previously appeal been filed on this property?

YES / NO

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



• Case No. BOA 201314.011

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 Travis Noice

Mailing Address 300 Ovilla Oaks Dr.

Telephone (Hm) 210-995-0923

Telephone (Wk) 210-382-8692

Email tn256@yahoo.com

M. J. Noice  
Applicant's signature

7/15/14  
Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



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

- Case No. BOA 201314.011

\*\*\*\*\*

OFFICE USE ONLY

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

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

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



Travis Noice  
2930 Tangleglen Dr.  
Rockwall, TX 75032  
210-995-0923  
tn256@yahoo.com

July 10, 2014

City of Ovilla  
Variance Committee  
105 Cockrell Hill  
Ovilla, TX 75154

Re: 300 Ovilla Oaks Dr, Ovilla, TX - Fence Variance Request

Variance Committee:

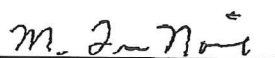
I am writing to request your consideration for a variance to be approved for a fence to be located at 300 Ovilla Oaks Dr, Ovilla, TX within the community of Ovilla Oaks. This request is in support of the fence permit application also submitted to the City of Ovilla for the same address noted.


Currently, the residence is part of a Trust administered by Mr. Michael Lee who is in the process of selling the home to me. The closing date for the sale will be within the next week or two. I am requesting this variance along with a fence permit in anticipation of closing and moving-in by August 1, 2014. Further, I hope to have the fence completed as close to the move-in date as possible. Therefore, I am requesting your consideration for this variance at the August meeting. Would you please review this request at that time? I have discussed this request with Mr. Lee who has no objections as the current owner. He may be contacted directly at 214-280-6871, if you have any questions or concerns.

The fence permit application will be for a wood, privacy fence six feet in height around the remaining unfenced portion of the backyard along the property line on the south side and continuing for a short distance along the west side of the property along Cedar Ridge Ct. to the driveway. It will continue along the driveway where it will end at the carport. The fence poles and cross braces will face inward in compliance with City of Ovilla ordinances. A gated access approximately 12 feet wide will be located within the driveway section of the fence.

I greatly appreciate your assistance with this request and associated fence permit. Please contact me or Mr. Lee if you have any questions, concerns or need additional information.

Sincerely,

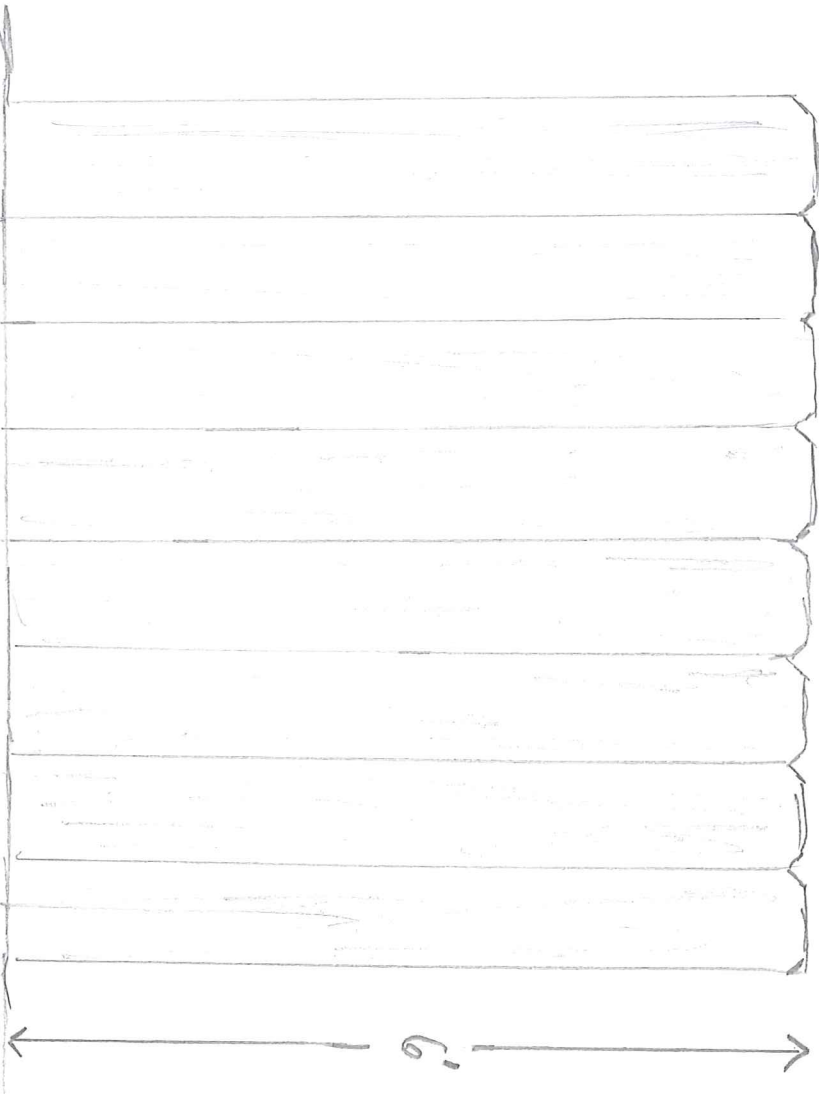
  
Travis Noice

  
Michael Lee

Attachments:  
Variance Committee processing fee, \$200  
Fence Permit application  
Survey with fence markup  
Side view of privacy fence

BOA 201314.011

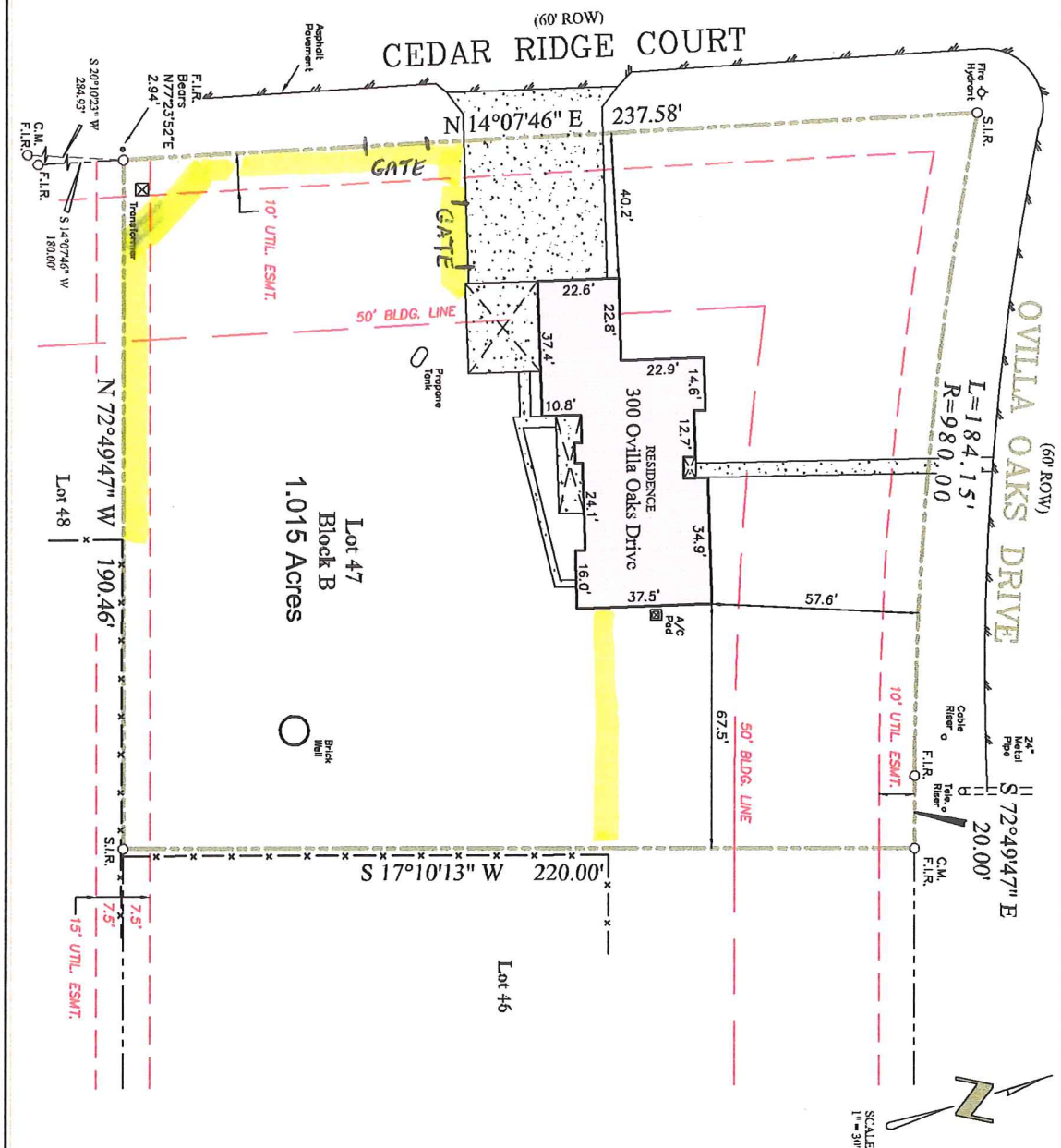
300 Ovilla Oaks Dr  
Ovilla, TX 75154



metal poles & rails  
facing inside.

Privacy Fence Sketch

M. TRAVIS NOICE  
July 10, 2014  
Fence Permit & Variance Request



300 Ovilla Oaks Drive

Estimates recorded in Vol. 228, Pg. 468, and Vol. 332, Pg. 340 do not affect the subject property to the best of my knowledge.

PROPERTY DESCRIPTION - LOT 41, BLOCK B, OVILLA OAKS, PHASE 1, ADDITION TO THE CITY OF OVILLA, ELLIS COUNTY, TEXAS, ACCORDING TO MAP OR PLAT THEREOF RECORDED IN CABINET B, SLIDES 111, OF THE MAP AND/OR PLAT RECORDS, TOGETHER WITH CERTIFICATE OF CORRECTION RECORDED IN COUNTY CLERKS FILE NO. 14976, DEED RECORDS OF ELLIS COUNTY, TEXAS.

The undersigned have/has received and reviewed a copy of this survey.

Date \_\_\_\_\_

**Members Title**  
150 N. Nolen  
Southlake, Texas 76092  
Ph. 459-209-7606

300 Ovilla Oaks Drive  
Ovilla, Texas

[illegible]

### SURVEYORS CERTIFICATION

the map, regardless of the accuracy of the survey and survey work. This way, made on the ground of the property, legally described horizon and is correct, and to the best of my knowledge, there are no visible discrepancies, conflicts, shortcomings in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way that I have been advised of except as shown hereon. The boundary shown hereon are based on the above referenced recorded map or plat, unless otherwise noted.



**Arthur Surveying Co.**  
*Professional Land Surveyors*  
220 Elm St., # 200 - Lewisville, TX 75057  
Ph. 972.221.9439 - T/F/N 972.10061500  
[arthurco.surveying.com](http://arthurco.surveying.com) Established 1986



BOA201314.011



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

**Applicant:** Travis Noice  
**Address:** 300 Ovilla Oaks

**Case Number:** BOA 201314.011

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 14, Section 35.3 FENCES IN RESIDENTIAL DISTRICTS; 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.		

*All findings must be determined in the affirmative for the variance to be granted.*

**BOA Members present, and upon a record vote of:**

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn			
Vice-Chair Barbara Betik			
Member Stephanie Albright			
Member Patricia Rarick			
Member Richard Ware			
Alt. Member Jeanne Ham			
Alt. Member Carol Richtsmeier			

**TOTALS:**

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

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

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

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

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

**BOARD OF ADJUSTMENT**

AGENDA ITEM NO: 2

August 18, 2014

**ITEM 2.**      **BOA201314.012 - Public Hearing and Discussion** of an appeal to the Ovilla Code of Ordinances, Chapter 3, Article 3.05, Section 3.05.006, TYPES OF FENCES AND CONSTRUCTION filed by Mr. Kenneth Hanks for a residential variance to construct a metal fence on his property at 821 Cockrell Hill Rd.  
**DISCUSSION/ACTION – Consideration** of requested **Variance** filed by Mr. Kenneth Hanks.

**APPLICANT:**                      Kenneth Hanks  
**LOCATION:**                        821 Cockrell Hill Rd  
**ZONING:**                         RE Residential

**NOTICES:**                        One public notice listed in the Waxahachie Daily Light; 17 certified letters mailed; the City office has received one opposition notice.

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**APPLICANT'S PROPOSAL:**

Applicant requests to construct a metal fence.

**DISCUSSION:**

**The Ovilla Code of Ordinances, Chapter 3, Section 3.05, Section 3.05.006 TYPES OF FENCE AND CONSTRUCTION states:**

*(c) Fences shall be constructed of city code approved wire, wood, wrought iron, vinyl, brick, pierced brick, stone, mortar, blocks, wood or other fence parks or a combination of some or all. The density and design is subject to the building code of the city. Wooden fences are required to be natural wood with metal posts except for decorative wooden rail fences. Wood byproducts and wood particleboards or sheets of wood byproducts of any type are prohibited. (Ordinance 2013-021 adopted 7/8/13)*

**BOARD DISCUSSION:** The Board is allowed to grant a **variance** based on the outcome of the *Findings of Fact* form.

**STAFF RECOMMENDATION:** N/A

**SAMPLE MOTION:**

***"I MAKE A MOTION THAT THE BOA GRANTS & APPROVES/DENIES THE VARIANCE TO KENNETH HANKS AT 821 COCKRELL HILL, TO BUILD A FENCE WITH METAL MATERIAL ON HIS PROPERTY, AS PRESENTED IN BOA201314-012."***

# 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:	<b>4518</b>	Valuation:	<b>\$4,500.00</b>
		Valuation w/land:	
Project Address: <b>821 Cockrell Hill</b>			
Lot:	Block:	Subdivision:	
Project Description: NEW SFR <input type="checkbox"/> SFR REMODEL/ADDITION <input type="checkbox"/> SPECIFY OTHER: _____ RE-INSPECTION/ADDITIONAL INSP <input type="checkbox"/> FLATWORK <input type="checkbox"/> SPRINKLER <input type="checkbox"/> SWIMMING POOL <input type="checkbox"/> ACCESSORY BUILDING <input type="checkbox"/> <b>FENCE</b> <input type="checkbox"/>			
Description of Work: <b>5ft 10in Iron Fence</b>			
Area Square Feet:		Covered	
Living:	Garage:	Porch:	Total: _____ Number of stories: _____

Owner Information:			
Name: <b>Ken Hanks</b>		Contact Person: _____	
Address: _____			
Phone Number: <b>972-345-0077</b>	Fax Number: _____	Mobile Number: _____	

<b>General Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>B &amp; B Concrete</b>		<b>972-286-6853</b>	
<b>Mechanical Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>Electrical Contractor</b>	Contact Person	Phone Number	Contractor License Number
<b>Plumber/Irrigator</b>	Contact Person	Phone Number	Contractor License Number

A permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. Separate permits may be required for electrical, plumbing, and heating/air condition. All permits require final inspection.

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.

Signature of Applicant: *Ken Hanks*

Date: 5/22/14

### OFFICE USE ONLY:

Approved by:		Date approved:	
Approved by Fire:		Date approved:	

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

Fence material -  
Steel - not allowed  
MD only 7.18.14

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

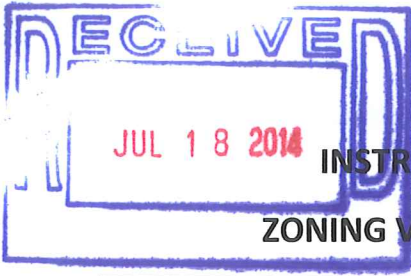
## CHAPTER 3

# BUILDING REGULATIONS

### ARTICLE 3.05 FENCES

#### **Sec. 3.05.006** Types of fence and construction

(c) Fences shall be constructed of city code approved wire, wood, wrought iron, vinyl, brick, pierced brick, stone, mortar, blocks, wood or other fence parks or a combination of some or all. The density and design is subject to the building code of the city. Wooden fences are required to be natural wood with metal posts except for decorative wooden rail fences. Wood byproducts and wood particleboards or sheets of wood byproducts of any type are prohibited. (Ordinance 2013-021 adopted 7/8/13)



## 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 201314-012

# 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.

MARSH LAND, STAYS WET YEAR ROUND, FLOODS DURING  
RAIN STORMS + WATER STANDS ON MY PROPERTY

**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.

NO ONE

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

LOOKS BETTER + WILL STAND UP UNDER THE ELEMENTS  
& DAMP + WET

**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.

THIS IS A BEAUTIFUL FENCE MADE OF VINTAL COATED  
METAL, WITH ARCHITECTURAL DECORATIVE ORNAMENTAL  
IRON RAILS + CASTINGS

**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.

### USE OF FENCE

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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. BOA 201314.012

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

Property Address 821 Cockrell hill Rd

Block No. \_\_\_\_\_

Ovilla TX 75154

Zoning \_\_\_\_\_

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

Seeking to use an unapproved material for fence.

Has a previously appeal been filed on this property?

YES / NO

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



- Case No. BOA 201314.012

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 Kenneth Hanks

Mailing Address 821, Cockrellhill Rd  
Ovilla Tx 75154

Telephone (Hm) \_\_\_\_\_

Telephone (Wk) 972-345-0077

Email kendhanks@yahoo.com

Ken Hanks  
Applicant's signature

7/3/14  
Date

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

**APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON**



DATE: 7/18/14

- Case No. BOA 201314.012

\*\*\*\*\*

OFFICE USE ONLY

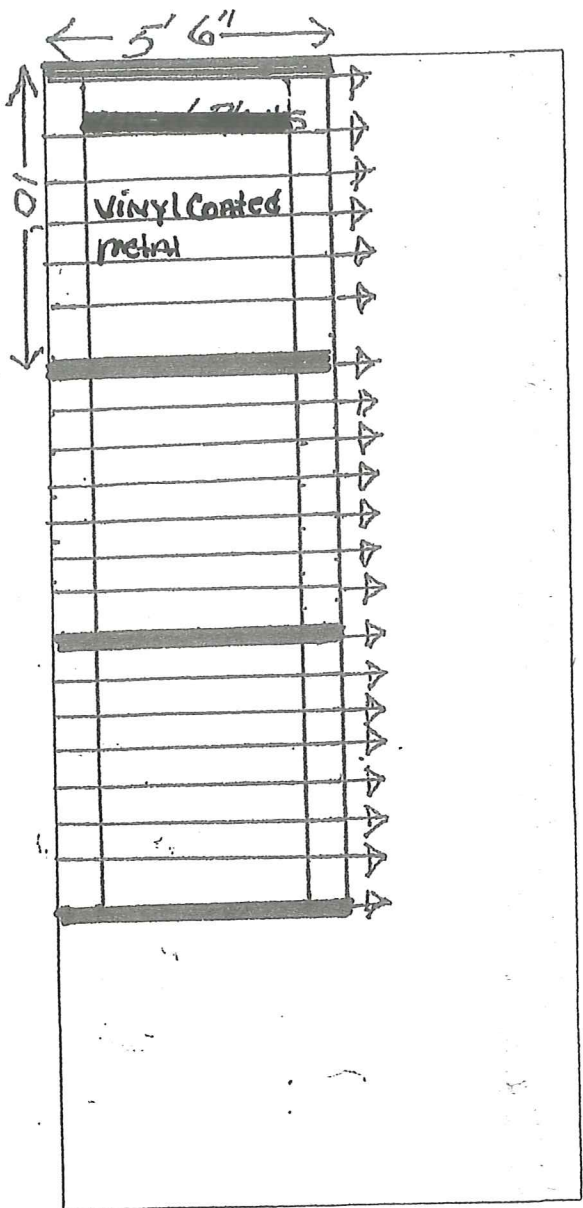
DATE RECEIVED: 7/18/14 HEARING DATE: 8/18/14

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

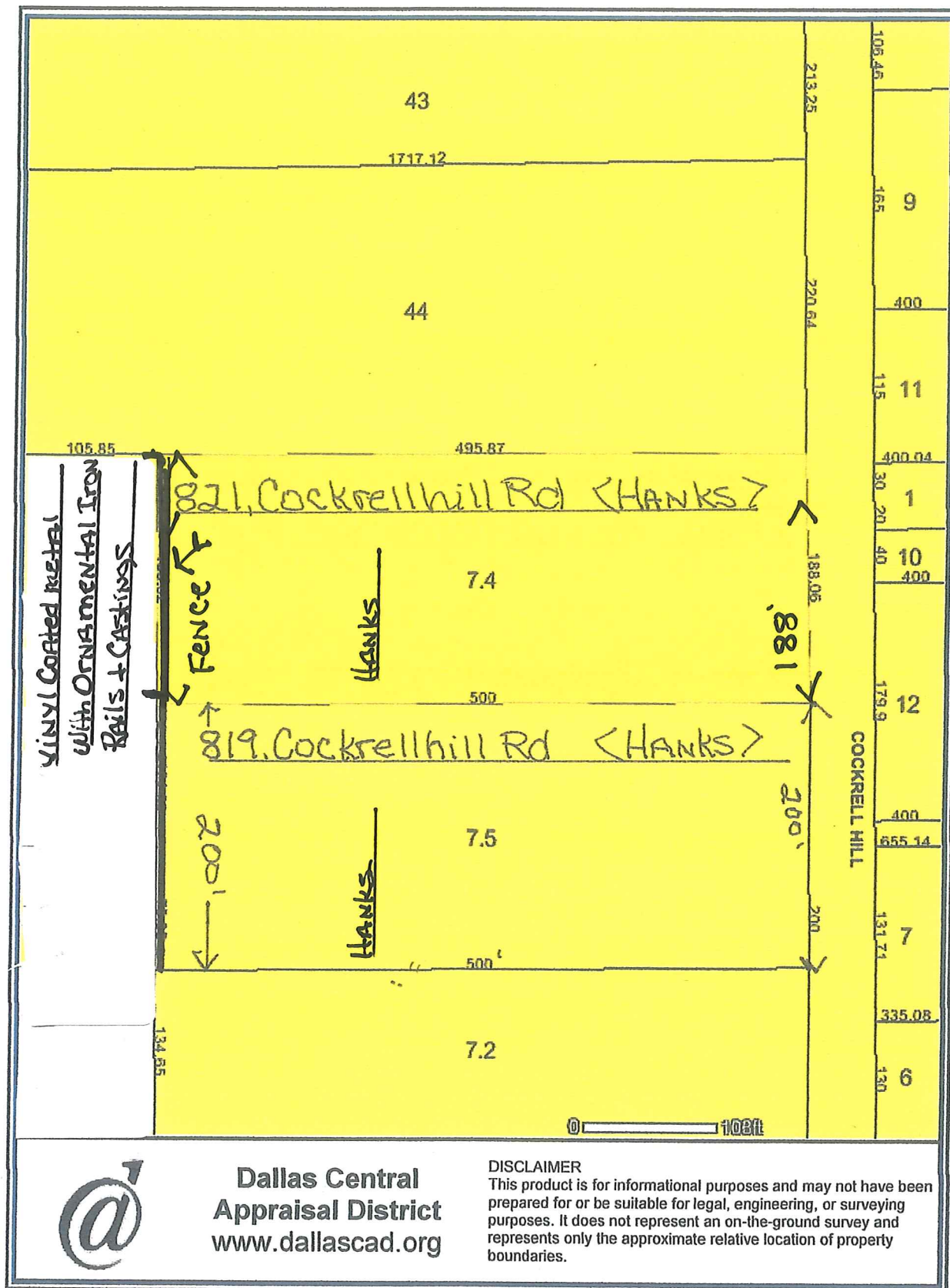


BOA CHAIRMAN SIGNATURE: \_\_\_\_\_



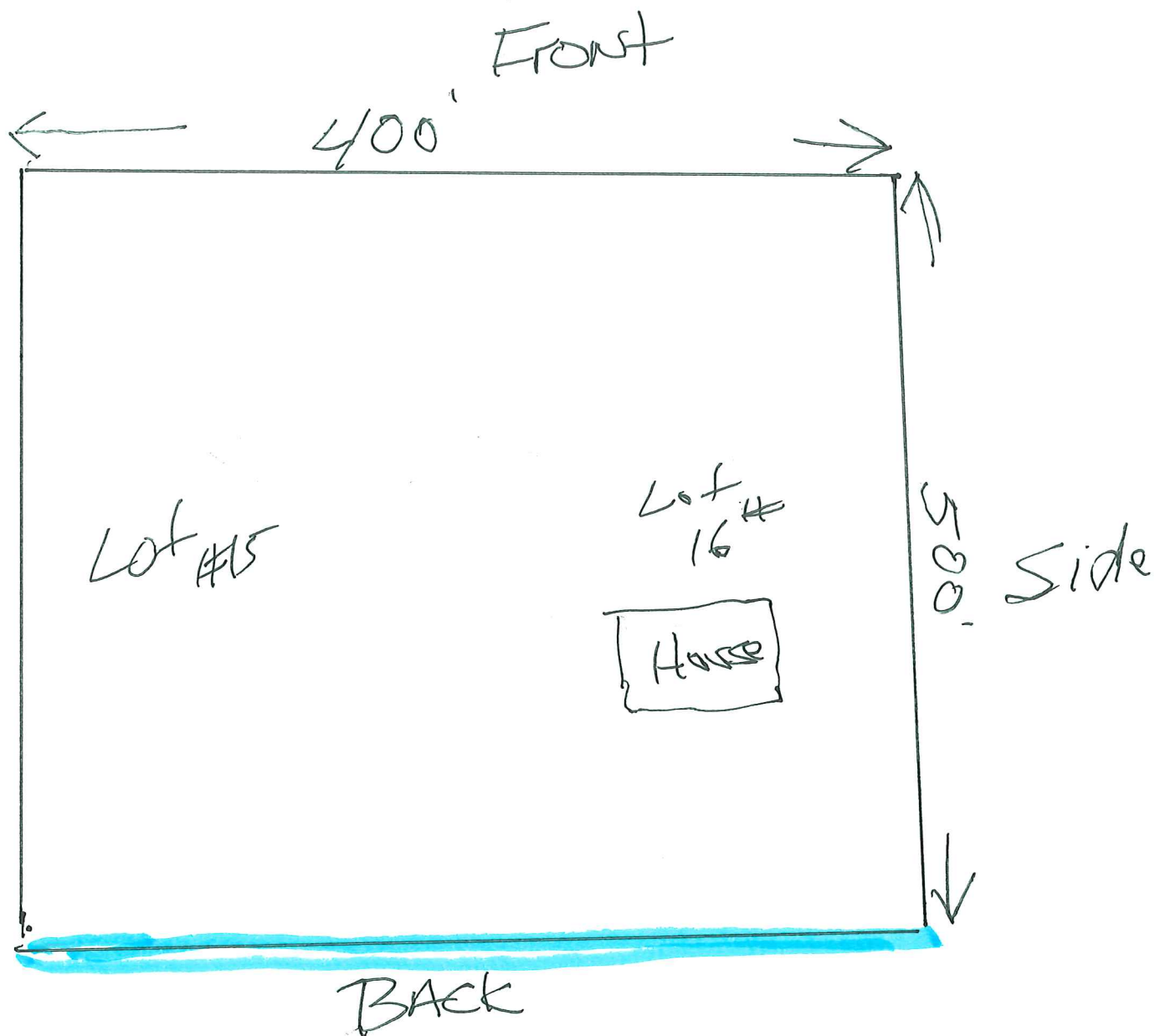


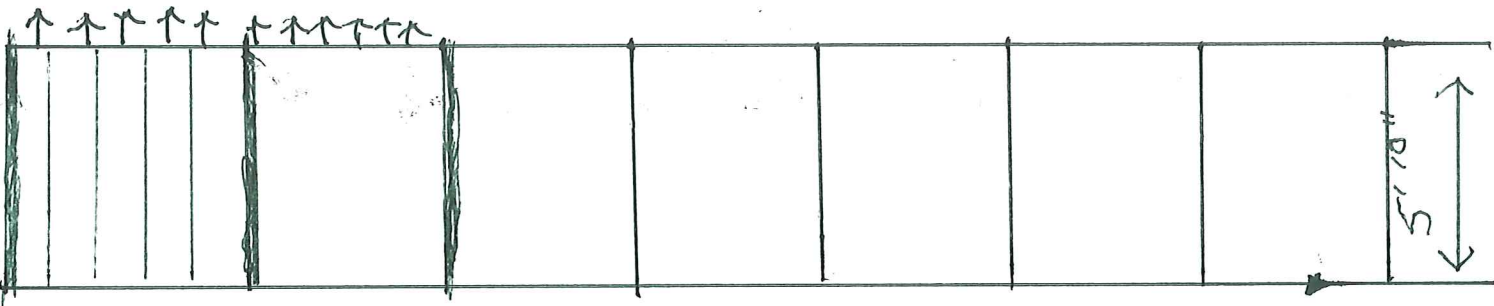
BOA 201314.012



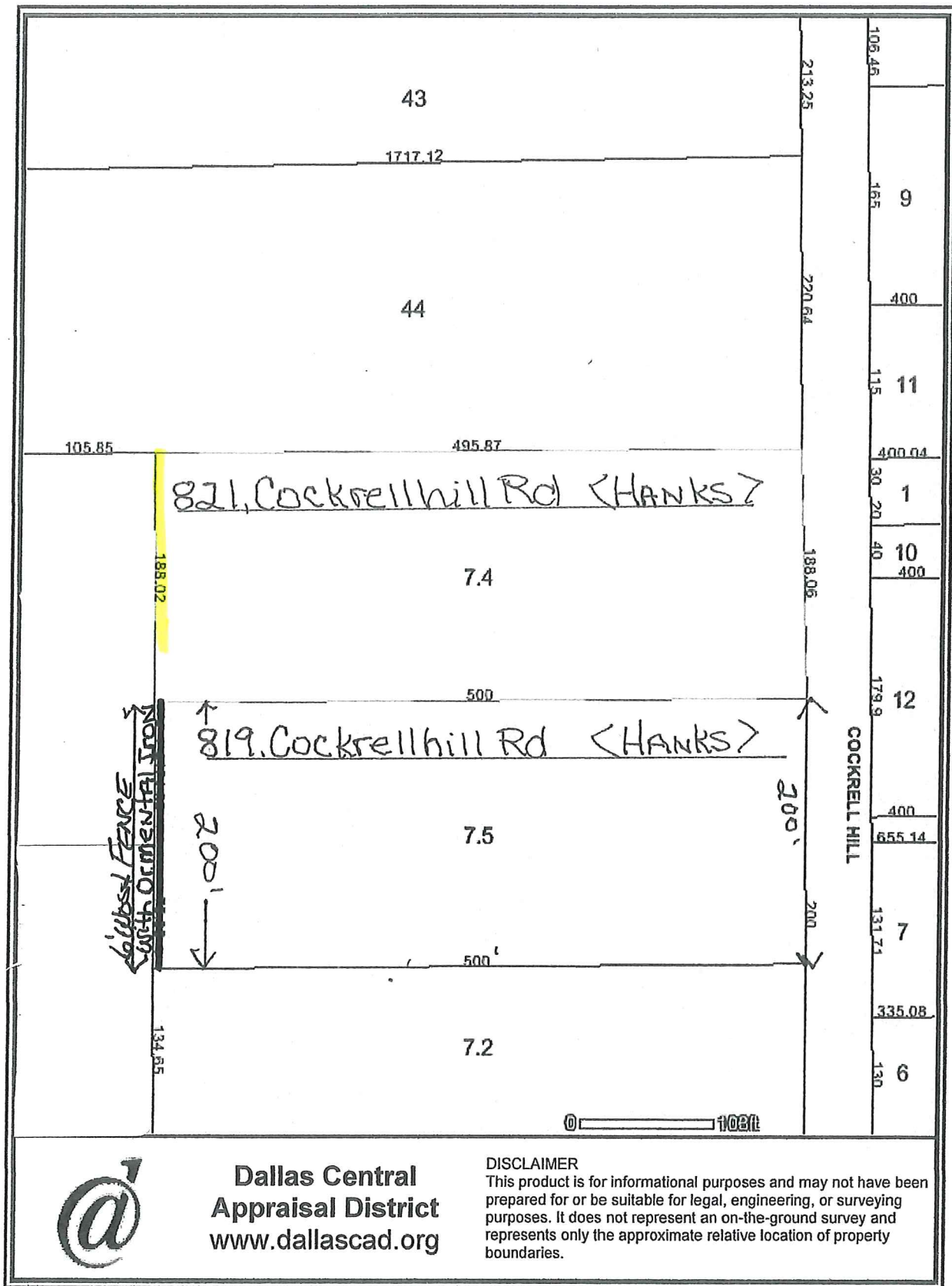
BOA 201314.012

TOTAL 5# ACRES





3" Post  
1" SPEARS  
5'10" R. Panels  
CONCRETE BASE



30A 201314.012



**DALLAS COUNTY TAX OFFICE**  
**JOHN R. AMES, CTA**  
**TAX ASSESSOR/COLLECTOR**

500 Elm Street Dallas, Texas 75202-3304  
214-653-7811 [www.dallascounty.org](http://www.dallascounty.org)  
email: [propertytax@dallascounty.org](mailto:propertytax@dallascounty.org)

**2012 TAX STATEMENT**



**HANKS KENNETH DALE**  
**821 COCKRELL HILL RD**  
**OVILLA TX 75154-8731**



Account: 65120219510070400

**Property Description:**

**821 COCKRELL HILL RD, OV**  
**HM RAWLINS ABST 1202 PG 195**  
**TR 7.4 ACS 2.2957**  
**ELLIS CAD 62120200002700298**  
**VOL92205/2211 EX090191 CO-DALLAS**

Land Value:	43,020
Improvement Value:	336,650
Agriculture Value:	0
Market Value:	379,670

Date Printed: September 30, 2012

Jurisdiction	Homestead Exemption	Taxable Value	Tax Rate	Tax Due
DAL CNTY	75,934	303,736	0.2431000	\$738.38
HOSP DIST	75,934	303,736	0.2710000	\$823.12
COLL DIST	75,934	303,736	0.1193750	\$362.58
SCH EQUAL	75,934	303,736	0.0099370	\$30.18
DESOTO ISD	15,000	364,670	1.4400000	\$5,251.25
Total Taxes for Account:		7,205.51		
Previous Payment on Account:		.00		

<b>IF PAID IN</b>	<b>P&amp;I</b>	<b>TOTAL DUE</b>
FEB	7%	7,709.90
MAR	9%	7,854.00

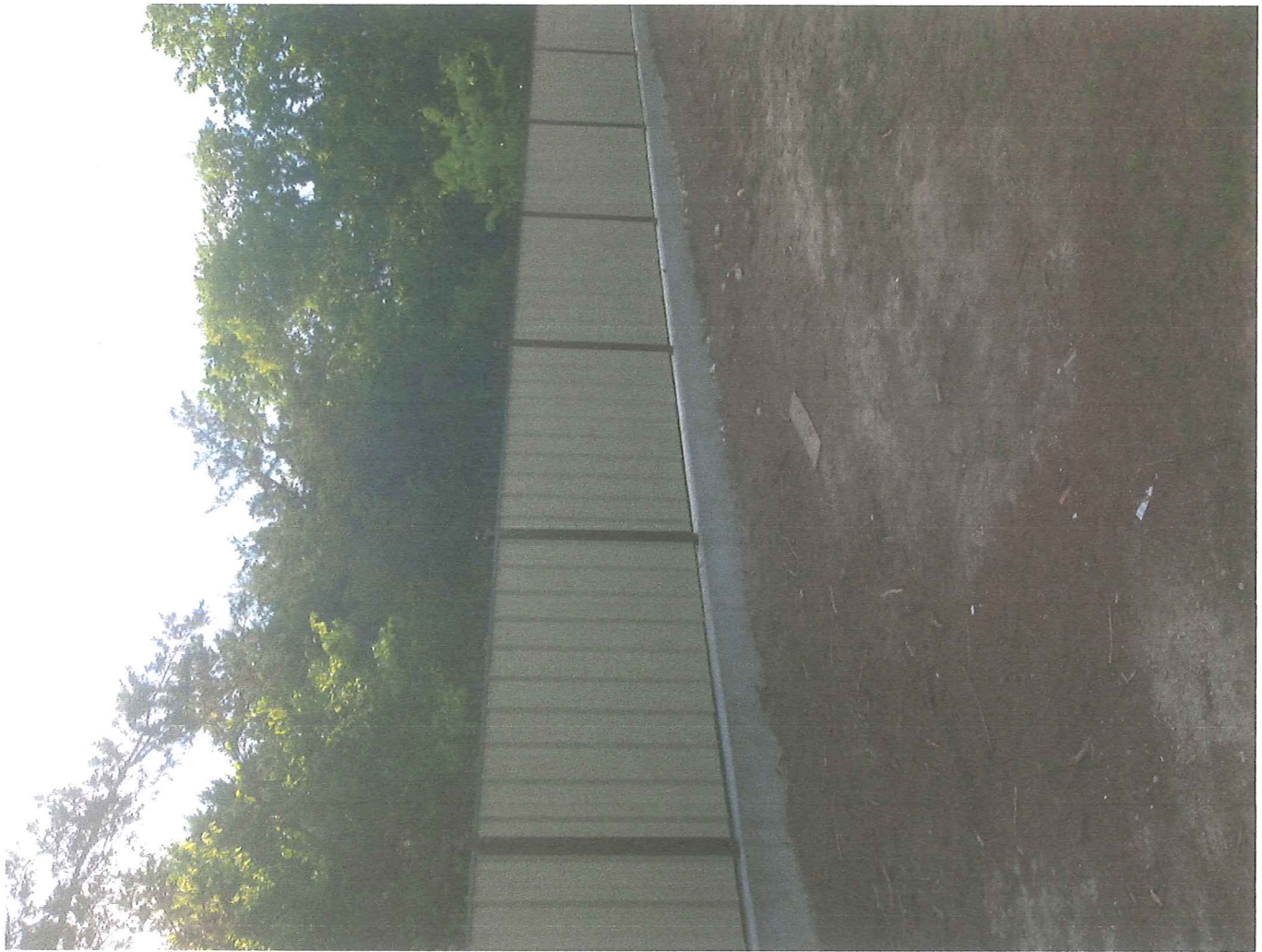
Pay Taxes online at  
[www.dallascounty.org](http://www.dallascounty.org)

**PAY BY JANUARY 31, 2013**  
**\$7,205.51**

*Your check may be converted to electronic funds transfer*

BOA201314.012

Subject: [No Subject]  
From: Ken (harksmm@yahoo.com)  
To: harksmm@yahoo.com;  
Date: Wednesday, July 16, 2014 3:32 PM



Sent from my iPhone

BOA201314.012  
7/16/2014 3:33 PM

Subject: [No Subject]  
From: Ken (hanksmm@yahoo.com)  
To: hanksmm@yahoo.com;  
Date: Wednesday, July 16, 2014 3:25 PM



Sent from my iPhone

BOA201314.012

7/16/2014 3:28 PM

Subject: [No Subject]

From: Ken (harksmn@yahoo.com)

To: harksmn@yahoo.com

Date: Monday, June 2, 2014 11:38 AM



Sent from my iPhone

BOA2013 14.012

6/2/2014 11:39 AM.

I strongly object to the appeal that Mr. Kenneth Hank has asked for. He has already put up his fence without getting it approved by the city. It is the most tacky thing I have ever seen from driving down the road. Part of it looks like tin that you would put up around a junk yard, & some of it looks to be wood that is partly painted & the last half is just a wood fence. Can not attend meeting because my work has sent me out of town the last 2 weeks in August or I would be at the meeting. If you let him get away without you are just opening a door that any citizen in Orilla can throw up anything & get away with it.

NORTH TEXAS TX 75201  
DALLAS TX 75201  
11 AUG 2014 PM 10 L



Attn:

Glennell Miller

To City of Orilla

105 S Cockrell Hill Rd

Orilla, TX 75154



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

**Applicant:** Kenneth Hanks  
**Address:** 821 Cockrell Hill Rd

**Case Number:** BOA 201314.012

Upon giving public notice and conducting a public hearing on this **VARIANCE** request in accordance with Chapter 3 Section 3.05.006 TYPES OF FENCES AND CONSTRUCTION; 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.		

*All findings must be determined in the affirmative for the variance to be granted.*

**BOA Members present, and upon a record vote of:**

	FOR	AGAINST	ABSTAIN
Member Jamie Hilburn			
Vice-Chair Barbara Betik			
Member Stephanie Albright			
Member Patricia Rarick			
Member Richard Ware			
Alt. Member Jeanne Ham			
Alt. Member Carol Richtsmeier			

**TOTALS:**

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

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

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

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

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

BOARD OF ADJUSTMENT  
**TABLED** AGENDA ITEM NO:   1    
August 18, 2014

◆ITEM 1.       **DISCUSSION/ACTION** – Consider nominations and appointment of Chair to the Zoning Board of Adjustment.

**Sample Motion:** *"I make the motion to remove this item from the table for consideration & action..."*

**Board Member** \_\_\_\_\_ made the motion to remove Item 1 from the table for consideration and action.

**Board Member** \_\_\_\_\_ seconded the motion.

– Consider nominations and appointment of Chair to the Zoning Board of Adjustment.

**ATTACHMENT:** Refer to the attached pages 14A-120 through 14A-121 of the Ovilla Code of Ordinance Book.

**DISCUSSION:**

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 a successor is appointed.

**STAFF RECOMMENDATION:** N/A

**SAMPLE MOTION:**

**"I NOMINATE \_\_\_\_\_ TO SERVE AS CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

1. \_\_\_\_\_
2. \_\_\_\_\_

**ANY OTHER NOMINATIONS?**

**"I MAKE A MOTION THAT THE BOARD APPOINTS \_\_\_\_\_ TO SERVE AS CHAIR TO 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.

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.

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.

### 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 first Monday in June of each odd-numbered year, and the terms of two of the members shall expire on the first Monday in June of each even-numbered year.

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.

### 45.3 PROCEDURE

#### A. Meetings.

1. The Board shall hold an organizational meeting on the first 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 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 Administrator.

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.

#### 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 211.008 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:

- 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.

BOARD OF ADJUSTMENT  
**TABLED AGENDA ITEM NO: 2**  
August 18, 2014

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

**Sample Motion:** *"I make the motion to remove this item from the table for consideration & action..."*

**Board Member** \_\_\_\_\_ made the motion to remove Item 2 from the table for consideration and action.

**Board Member** \_\_\_\_\_ seconded the motion.

– Consider nominations and appointment of Vice Chair to the Zoning Board of Adjustment.

**ATTACHMENT:** Refer to the attached pages with Tabled Item 1

**DISCUSSION:**

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 a successor is appointed.

**STAFF RECOMMENDATION:** N/A

**SAMPLE MOTION:**

**"I NOMINATE \_\_\_\_\_ TO SERVE AS VICE CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**

1. \_\_\_\_\_
2. \_\_\_\_\_

***ANY OTHER NOMINATIONS?***

**"I MAKE A MOTION THAT THE BOARD APPOINTS \_\_\_\_\_ TO SERVE AS VICE CHAIR TO THE OVILLA ZONING BOARD OF ADJUSTMENT."**