



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, JUNE 1, 2020
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
7:00 PM**

Page

1. CALL TO ORDER

**2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS
FLAGS**

3. CITIZEN COMMENTS

4. APPROVAL OF MINUTES

3 4.1. July 10, 2019 - Board of Adjustments Meeting Minutes
 [July 10, 2019 BOA Meeting Minutes](#)

4 - 19 4.2. July 22, 2019 - Board of Adjustments Meeting Minutes
 [July 22, 2019 BOA Meeting Minutes](#)

5. PUBLIC HEARING

The Board will receive comments regarding the request of Steve Buis, requesting variances to Zoning Ordinance Chapter 14, Section 4-2(c) Area Requirements 1) to reduced the lot size from 2.5 acres in a Single-Family 2.5 Acre Residential Zoning District to 2.0 acres; and 2) to reduce the minimum lot width from 300' to 169 feet in order to sell the property with an existing home.

**6. DISCUSSION AND ACTION REGARDING THE REQUEST OF STEVE
BUIIS, REQUESTING VARIANCES TO ZONING ORDINANCE
CHAPTER 14, SECTION 4-2(C) AREA REQUIREMENTS, 1) TO
REDUCE THE LOT SIZE FROM 2.5 ACRES IN A SINGLE-FAMILY 2.5
ACRE RESIDENTIAL ZONING DISTRICT TO 2.0 ACRES; AND 2) TO**

REDUCE THE MINIMUM LOT WIDTH FROM 300' TO 169' IN ORDER TO SELL THE PROPERTY WITH AN EXISTING HOME.

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6.1. [Staff Report 1625 FM1130](#)

7. PUBLIC HEARING

The Board will consider the application of Steve Buis requesting a variance to Zoning Ordinance Chapter 14, Section 4-2(c) Area Requirements to reduce the lot width to 169' in a Single-Family 5 (SF5) Acre Residential Zoning District requiring 300' minimum lot width for a future single-family home building permit.

8. DISCUSSION AND ACTION REGARDING THE APPLICATION OF STEVE BUIS REQUESTING A VARIANCE TO ZONING ORDINANCE CHAPTER 14, SECTION 4-2(C) AREA REQUIREMENTS TO REDUCE THE LOT WIDTH TO 169' IN A SINGLE-FAMILY 5 (SF5) ACRE RESIDENTIAL ZONING DISTRICT REQUIRING 300' MINIMUM LOT WIDTH FOR A FUTURE SINGLE-FAMILY HOME BUILDING PERMIT.

30 - 40

8.1. [Staff Report 1537 FM 1139](#)

9. ADJOURN

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Rochelle Green, do hereby certify that the above Notice of Meeting of the Board of Adjustment of McLendon-Chisholm, Texas was posted on or before 5:00 p.m., May 28, 2020 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



MINUTES
McLENDON-CHISHOLM, TEXAS
BOARD OF ADJUSTMENT
July 10, 2019

Members Present:	Beverly Stibbens	Chairman
	Herb Harker	Board Member
	Gary Nickel	Board Member
	Melody Osorio	Board Member
	David Cross	Board Member (Alternate)
	Valerie Bodart	Board Member (Alternate)
Members Absent:	Frank Fite	Board Member
Staff Present:	Karl Crawley	City Planner (Masterplan)
	Shelly Green	Assistant to the City Secretary

1. Board of Adjustment New Member Orientation

- 1.1 City Planner will conduct a brief orientation session for newly appointed Board of Adjustment Members regarding meeting protocol, board member duties and related matters

Karl Crawley, Masterplan, made a brief presentation to the members regarding the requests for variances they might have to consider as well as plat review. He covered the duties of the Board along with rules and regulations they must follow when making their decisions.

ATTEST:

APPROVED:

Lisa Palomba, City Secretary

Beverly Stibbens, Chairman



**Board of Adjustment
City of McLendon-Chisholm, Texas
Meeting Minutes
July 22, 2019**

The Board of Adjustment of the City of McLendon-Chisholm convened in Regular Session on Monday, July 22, 2019, at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members present:

ATTENDING:	Beverly Stibbens	Chairperson
	Gary Nickel	Board Member
	Frank Fite	Board Member
	Valerie Bodart	Board Member
	Herb Harker	Board Member
ABSENT:	David Cross	Board Member
	Melody Osorio	Board Member
Staff Present:	Karl Crawley	City Planner (Masterplan)
	Lisa Palomba	City Administrator/City Secretary

1. CALL TO ORDER

Chairperson Stibbens called the meeting to order at 7:00 p.m.

2. Chairperson Stibbens led the Invocation and the Pledge of Allegiance to the U.S. and Texas Flags.

3. SELECT CHAIRPERSON AND VICE CHAIRPERSON

Chairperson Stibbens entertained nominations for a Chairperson and a Vice Chairperson for the Board of Adjustment.

MOTION: Nomination of Beverly Stibbens as Chairperson.

MADE BY: Board Member Fite
SECONDED BY: Board Member Nickel
APPROVED: Unanimously

MOTION: Nomination of Gary Nickel as Vice Chairperson.

MADE BY: Board Member Harker
SECONDED BY: Chairperson Stibbens
APPROVED: Unanimously

4. APPROVAL OF BOARD OF ADJUSTMENT MEETING MINUTES

4.1. June 11, 2018

MOTION: APPROVE MINUTES OF JUNE 11, 2018 AS PRESENTED

MADE BY: Board Member Fite
SECONDED BY: Chairperson Stibbens
APPROVAL: Unanimously

5. CONSIDER THE APPLICATION OF WILLIAM NELSON, REQUESTING A VARIANCE TO THE SITE BUILDING SETBACK FROM 25' TO 15' FOR THE PURPOSE OF BUILDING A GARAGE. THE PROPERTY IS DESCRIBED AS 1.606 ACRES, CHISHOLM CROSSING PHASE ONE, BLOCK A, LOT 11, ALSO DESCRIBED AS 3 WINTER HAWK DRIVE, MCLENDON-CHISHOLM

Chairperson Stibbens introduced this item.

Karl Crowley, City Planner, presented the following staff report:

CASE NUMBER: BOA 2019-001

SUBJECT: Variance to the required Side Yard setback Sec. 4.5 (25 feet) to allow a minimum setback of 15 feet.

Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 4.5 (Side Yard) to allow a 15-foot side yard setback where 25 feet is required for an approximately 896-square foot accessory structure. The subject site is located at 3 Winter Hawk Drive and is zoned an SF1.5 Single Family Residential District.

APPLICANT/OWNER:

William Nelson 3 Winter Hawk Dr. McLendon Chisholm, TX 75032

BACKGROUND:

The applicant is requesting a variance to the side yard setback to allow the construction of an approximately 896-square foot one-story structure to be used as a garage and storage building. The applicant states the structure is needed in order to allow his vehicles to be parked inside. This has been precipitated by the recent theft of a personal vehicle and the theft of a neighbor's vehicle. The construction including some minor excavation/dirt work and form boards was done before a permit and the determination that the structure was in the required side yard setback. Construction has ceased awaiting the outcome of this request.

CONSIDERATIONS:

The McLendon Chisholm Zoning Ordinance in Section 4.5 (Side Yard) states that the minimum side yard setback is 25 feet. Furthermore, in Section 6.3 C2 Accessory building regulations “there shall be a side yard not less than 25 feet from any side lot line, alley...”

A review of the exhibits presented by the applicant and a site visit points out that the proposed accessory storage/garage building will be located a minimum of 10.5-feet from the side lot line thus requiring a variance of 10 feet from the required 25-foot side yard setback.

FINDINGS:

According to Section 1-15 (G) of the Zoning Ordinance, the Zoning Board of Adjustment has the “power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship...” the Section further states that the Board may permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out the provisions due to an irregular shape of the lot or topographic or other conditions, provided such variance will not seriously affect any adjoining property or the general warfare.

1. The variance is necessary to permit development of a specific parcel of land which differs from other parcels of land of special circumstances concerning the size, shape, area, topography, conditions and location of the parcel that is subject of the variance request.

The subject property, 3 Winter Hawk Drive, is restricted in development by a large Soil Conservation Easement located to the rear of the existing lot. This easement contains the dam for a Soil Conservation lake/pond located behind the lot. This easement and associated dam prohibit moving the proposed building further to the rear of the lot.

2. The granting of the variance will not be materially detrimental to the public welfare or to the use, enjoyment or values of the surrounding properties.

The applicant supplied and attached material and site visit points out that the closest neighbor to the proposed building has an approximately 8-foot solid fence on the site of the lot of the proposed building. Also included in the material was an approval letter from the Homeowners Association for the design and materials for the building. Finally, there are examples of similar structures in the same subdivision, as provided by the applicant, which are in the side or rear of the lot which have not had a detrimental affect on the surrounding properties.

NOTIFICATION:

A newspaper notice was published a minimum of ten (10) days prior to the meeting. Notices were sent to all property owners within 200 feet of the area of request.

OPTIONS:

1. Approve as requested subject to the attached Site Plan
2. Deny the request with or without prejudice
3. Postpone the item to a later hearing with the date specified.

RECOMMENDATION:

Recommendation of approval based on the aforementioned property constraint.

ATTACHMENTS:

1. Zoning Map
2. Aerial
3. Notification Map
4. Application material

Board Member Nickel – The width appears wide enough that he could do it on the other side of the house.

City Planner Crawley – He could build it there obviously, but he would then have two driveways or he would have a driveway that went all the way around the back of his house which is not typically seen. Two driveways definitely aren't typical and then he would have a large part of his back yard that would then be a driveway connecting it. There's nothing that says he couldn't do that, you're right.

Chairperson Stibbens opened the public hearing at 7:08 p.m.

William Nelson, 3 Winterhawk. I'm requesting a side variance to my side yard from 25 feet to 15 feet to build an additional garage. My neighbors, including my HOA have all signed all necessary paperwork and are in favor of my variance. The location I want to build is the only area on my property that is large enough for the garage due to a soil conservation berm and pond that runs immediately behind my house. We could look at the other side, but it's still going to run very close on that and then I'd have two driveways and I highly doubt my HOA would even consider that. My septic system runs on that side and I really don't think that would work. We looked at all options when doing this. This is the most appropriate place to build it that would make the most sense. The reason to build my garage is because my vehicle was stolen back in September 2018 and this May my immediate neighbor at 1 Winter Hawk, his vehicle was stolen out of the driveway as well. I just feel that this is the correct thing to do. Our

city is growing and I feel like I need to protect and lock up my things. I have submitted numerous documents for your review and I ask you to please grant me this variance.

Board Member Nickel - You have windows and stairs.

Nelson - It is just for storage.

Chairperson Stibbens – Called for anyone who wanted to speak in favor of this request.

Mark Kipphut, 31 Fireside Drive. I feel like I am uniquely qualified to speak on this, as a former member of the HOA, prior to Willie joining. He is a great neighbor, a great citizen within the community, and is currently serving on the HOA. Living in Chisholm Crossing, the conservation lake is one of the twenty-four conservation lakes scattered through Rockwall County. These were all constructed through state and federal funding back in the 1950s and are under significant deed restrictions that carry forward. When the property was turned over to the HOA, unfortunately the lake was not turned over so we had to go back and correct that and have that lake converted to the HOA. I went back and looked at all the deed restrictions all the way back to the construction of the lake itself. It comes with significant restrictions, not only on the lake, but on the berm that is on Mr. Nelson's property and the drainage that exists around that. That affects all the housing around, especially with the placement of their septic systems. To address the question Mr. Nickel had, could it be moved, yes. But then he would have the additional cost of building a whole new driveway, additional cost of removing and replacing the septic system. It's not a simple space matter, those lots get very restrictive. I strongly support this.

Brian Caldroni, 15 Fireside Dr., which is also in Chisholm Crossing. I am a current HOA board member and I can verify that the HOA has approved the site construction plans for Mr. Nelson's construction. It has gone through the architectural review board as well as he has received approval from the neighbor whose property-line we are all speaking about as well as his other neighbors. I do urge you to vote for this approval.

Michael Davis, 106 Chaney Place. I am also a neighbor there in Chisholm Crossing and I serve on the architectural control committee for the HOA. We did look at this and it has been approved. If you look at the draft of the original plat that was provided, it shows the original setbacks are at 10'. The city ordinance has, at some time, changed and created limits specific to the SF 1.5, I strongly support this as a neighbor. I think it is well within the consistency of the neighborhood and is only going to improve the valuation of the neighborhood.

Chairperson Stibbens asked for anyone who wished to speak against the variance.

There was no one to speak against.

Board Member Nickel - One more question for Mr. Nelson, I noticed in your letter of application that you measured the existing corners currently at 16' and 13'. I wondered if you would like to remedy that to 15'?

Nelson - Absolutely. I followed the HOA regulations and started the dirt work only. I stopped construction completely. I thought I was doing the right thing and I will make the adjustment. It won't be a problem whatsoever.

Chairperson Stibbens closed the public hearing at 7:17 p.m. and turned it over to the board for comments.

MOTION: MOVE THAT THE ZONING BOARD OF ADJUSTMENT IN APPEAL BOA 2019-001, ON APPLICATION OF WILLIAM NELSON, GRANT THE APPLICATION FOR A VARIANCE TO THE SIDE YARD SETBACK REGULATIONS FROM 25 TO 15 FEET CONTAINED IN THE CITY OF MCLENDON-CHISHOLM ZONING ORDINANCE SUBJECT TO THE FOLLOWING CONDITION: COMPLIANCE WITH THE SUBMITTED SITE PLAN IS REQUIRED.

MADE BY: Board Member Fite
SECONDED BY: Board Member Bodart
APPROVED: Unanimously

- 6. CONSIDER AN APPLICATION OF VAQERO MCLENDON PARTNERS, LP ON BEHALF OF MARIAH BAY DEVELOPMENT, INC. REQUESTING A SPECIAL EXCEPTION TO COMMERCIAL DEVELOPMENT STANDARDS TO ALLOW FOR CONSTRUCTION OF A 9,100 SQUARE FOOT BUILDING AND VARIANCE TO ALLOW A BUILDING WALL LENGTH OF 130 FEET FOR THE PURPOSE OF BUILDING A DOLLAR GENERAL STORE. CURRENT ZONING REGULATIONS ALLOW A MAXIMUM OF 6,000 SQUARE FEET AND A MAXIMUM BUILDING WALL LENGTH OF 80 FEET. THE PROPERTY LOCATION IS DESCRIBED AS PART OF ROCKWALL CAD PARCEL NO. 61971, 1.254 ACRES SITUATED IN THE LEONARD EASTWOOD SURVEY, ABSTRACT NO. 79, CITY OF MCLENDON-CHISHOLM.**

Chairperson Stibbens introduced this item.

Karl Crawley, City Planner, gave the follow staff report:

CASE NUMBER: BOA 2019-002

SUBJECT: Special Exception of the Commercial Development Standards Section 4-13 (E) Building Form to allow a single-story building floor area to exceed the maximum of 6,000 square feet and a Variance to Commercial Development Standards Section 4-13 (E) Building Form to allow the maximum length for any building wall to exceed 80 feet.

Conduct a public hearing, discuss and consider a special exception and variance request from Zoning Ordinance Section 4.13 (E) Commercial Development Standards to allow the construction of a one-story commercial structure with 9,100 square feet of floor area with an exterior wall of 130 feet. The subject site is located on FM 550,

approximately 270 feet southwest of the intersection of FM 550 and SH 205 and is zoned a GB General Business District.

APPLICANT/OWNER:

Vaquero McLendon Partners, L.P. – Applicant
2900 Wingate Street, #200
Ft. Worth, TX 76107

Mariah Bay Development, Inc. – Owner
P.O. Box 369
Rockwall, TX 75087

BACKGROUND:

The applicant is requesting a special exception to the maximum allowable floor area for a single-story structure to allow the construction of a 9,100 square foot building to be used for an indoor retail store or shop. Section 4.13(E)(1) Commercial Development Standards of the Zoning Ordinance states that “the minimum area of a single floor shall be 2,500 sf. The maximum area allowed for a single floor shall be 6,000 sf. Any building which exceeds this size shall require a special exception.”

The second request by the applicant is for a variance to the same Commercial Development Standards Section 4-13(E) Building Form. This request is based on the next line from the Section quoted above; this portion of the Ordinance states “The maximum length for any building wall shall be 80 ft.”

CONSIDERATIONS:

The Zoning Ordinance in Section 1-15 (H) lists several special exceptions which the Board is authorized to act on; although this request is not specifically listed in this Section it is listed as available for a special exception in the Commercial Development Standards. Without a clear set of criteria for the Board to judge the merit of a special exception request it falls upon the Board to determine if the requested special exception will not be detrimental to surrounding properties and will further serve a public need and good. The applicant has stated the reason needed for both the special exception and variance is that the request is based on a prototype building for the tenant, Dollar General, which is larger than the allowable building size. As such a special exception is not based on a property hardship and is a determination by the Board as to the effect of the proposed special exception of the Zoning Ordinance on the surrounding properties. The area directly to the northeast of the proposed building is the rear of the existing convenience store/restaurant/gas station located at the intersection of FM 550 and SH 205. According to the appraisal district records the adjacent retail building is approximately 5,600 sf. The areas to the north and west of the site are undeveloped and are mostly contained in the flood plain. The area across FM 550 is undeveloped and is GB and SF 1.5.

The second request by the applicant is for a variance to the same Commercial Development Standards Section 4-13 (E) (1) Building Form. This request is based on the next line from the Section quoted above; this portion of the Ordinance states "The maximum length for any building wall shall be 80 ft." the difference between this line and the previous is the mention of a special exception as an allowed relief. The Zoning Ordinance only allows certain provisions to be relieved through a special exception otherwise a variance is required. According to Section 1-15 (G) of the Zoning Ordinance, the Zoning Board of Adjustment has the "power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship..." the Section further states that the Board may permit a variance where there are unusual and practical difficulties or unnecessary hardships in the carrying out the provisions due to an irregular shape of the lot or topographic or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare. The applicant for a variance to the Zoning Ordinance must demonstrate "that 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 "that a literal interpretation of the provisions of this ordinance would deprive that applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;" and "that special conditions and circumstances do not result from the actions of the applicant."

The reason for the requested variance to allow any building wall to exceed 800 feet in length as given by the applicant is because the building is a prototype for the tenant, Dollar General. Approval of a variance is based on property hardship, conditions or circumstance not based on the actions of the applicant. Although the proposed building may be a prototype for the tenant there is no requirement in the zoning or based on site constraints that this is the only building that can be built on the site. The site does contain flood plain that will need to be remedied before a building permit could be issued but this does not force the building to have a wall length greater than 80 feet. The topography (besides the flood plain issue) and size are not forcing the design to include a 130-foot wall. Overall there is no property hardship or constraint that is requiring this building design with a 130-foot wall.

Other factors in the design of the proposed building and site. The applicant did not request nor can the Board decide at this hearing on the following items that the submitted Site Plan shows. The proposed building and associated development are not in compliance with the Zoning Ordinance; the Commercial Standards in Section (K)(2) states that "no more than one row of angled or parallel parking shall be allowed between the primary building and the street right-of-way." The proposed (and attached) Site Plan shows two rows of 90-degree parking between the building and FM 550. Finally, the parking requirements for the proposed use, Indoor Retail Store or Shop, requires one parking for every 250 sf of floor area for the first 5000 sf of building and then one space per 200 sf of floor area. The proposed 9,100 sf building would require 41 parking spaces while the Site Plan shows a total of 37 spaces for a shortage of 4 spaces.

FINDINGS:

According to Section 1-15 (G) of the Zoning Ordinance, the Zoning Board of Adjustment has the “power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship...” the Section further states that the Board may permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in carrying out the provisions due to an irregular shape of the lot or topographic or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

1. The variance is necessary to permit development of a specific parcel of land which differs from other parcels of land of special circumstances concerning the size, shape, area, topography, conditions and location of the parcel that is subject of the variance request.

The subject property is restricted in size by the flood plain but that restriction would prohibit any development on the site not just that proposed by the applicant. If the applicant is successful in getting the flood plain issue resolved that restriction goes away. The requested variance to allow a wall length greater than 80 feet is not caused by a property hardship it is being requested by the applicant in order to build a prototype building for the tenant, thus a self-created hardship.

2. The granting of the variance will not be materially detrimental to the public welfare or to the use, enjoyment or values of the surrounding properties.

The proposed building will not have a detrimental effect on the surrounding properties if the applicant can resolve the flood plain issue.

As mentioned in the above report the Zoning Ordinance in the matter of a special exception for a floor area greater than 6,000 square feet does not have specific criteria to judge the request. Unlike a variance, a special exception does not have to be based on a property hardship. In this case it would be based on the building's impact to surrounding properties and the City as a whole. The surrounding properties and zoning are retail oriented, and as such, the proposed retail use would not be detrimental to the surrounding uses.

The proposed building size and shape are only based on a prototype for the tenant versus fitting into the surrounding area. The proposed 9,100-square foot building is over 150% greater than that allowed by the Zoning Ordinance. The Site Plan submitted by the applicant does not comply with off-street parking requirements. The current Site Plan is deficient in parking with 40 required and 37 provided. Although it falls outside the scope of request, the amount of required parking directly correlates to the building size. Also, the adjacent retail building with two users, complies with the maximum building area, measuring 5,595-square feet.

Since the decisions of a Special Exception is not based on a finding of a property hardship but based on whether the Board finds the request would be detrimental to the surrounding properties, Planning staff will not make a recommendation. Nonetheless, in our opinion the requested special exception is based on a self-created situation, and the scale of the building currently presents deficiency in complying with building dimensions and parking requirements.

NOTIFICATION:

A newspaper notice was published a minimum of ten (10) days prior to the meeting. Notices were sent to all property owners within 200 feet of the area of request.

OPTIONS:

1. Approve as requested subject to the attached Site Plan
2. Deny the request, with or without prejudice
3. Postpone the item to a later hearing with the date specified.

RECOMMENDATION:

Recommendation of denial of the variance to Commercial Development Standards Section 4-13(E)(1) Building Form for a building wall greater than 80 feet.

No recommendation on the Special Exception. The determination is to be made by the BOA based on the testimony received during the hearing.

ATTACHMENTS:

1. Zoning Map
2. Aerial
3. Notification Map
4. Application material

Board Member Nickel - Does the flood plain cause a special exception.

City Planner Crawley - That is not an issue for you to consider. That's an engineering issue.

Chairperson Stibbens opened the public hearing at 7:27 p.m. She reminded the audience that the Board is here to act on the size of the building and the size of a wall, not the name on the front of the building.

The applicant, Vaquero McLendon Partners, L.P. represented by Ryan Dysktra, 2900 Wingate Street, Ft. Worth, Texas, presented the project. The site is in the general business district behind the Sonic and the Lone Star Convenience Store. The future land uses are outlined on the second page of the handout. The future land use encourages retail in high traffic areas. We are there near the intersection of Highway 205 and FM 550, which carries 12,985 vehicles per day, which is pretty heavy. We are also in compliance with the section which addresses diversifying the City's commercial and sales tax base by appropriate commercial development. We're projecting over one and a half million dollars in sales here. It is meeting that goal of expanding the sales tax base for the city. We show you the flood plain with how our sight lines are laid out. With that is an economic issue more than anything else. We will have to build the site up out of the floodplain and we have to detain the water so it will be a net zero runoff pre- and post-development. We have to construct a detention pond to hold the water that we displace with our concrete so the water will be the same coming off the property it was before. Even the floodplain is an economic hardship more than anything else. We work with FEMA on that so they have to approve everything with their calculations and make sure it's the net zero runoff as well. They will provide a letter of map revision for this where it's certified by engineer's stamp. The next page shows the Sonic and the Lone Star Ranch next door and we are committed to creating a building that looks very similar to this one. There's the exterior windows, the very high roof, the HVAC screening, 100% masonry bump outs, decorative cornices. Everything that is required in McClendon-Chisholm building requirements we will meet. We have done other projects in the Metroplex similar to this one. There are interior pictures of what the store will look like. The last thing that I want to bring to your attention is the legislation that the state just passed in regard to building requirements. Essentially, the spirit of it is that cities are no longer going to be able to regulate what kind of exterior is on the building effective September 1st.

Board Member Nickel - It wasn't apparent where the loading door would be.

Dysktra - The loading door will be on the south side of the building. It's an eighteen-wheeler that delivers once a week and we design it so it pulls in from the front of the store and backup to deliver on the west corner, then it pulls out so it never backs up onto a public road.

Board Member Nickel - Can you explain in more detail why this store is a prototype and what that implies.

Dysktra - Dollar General, being a national brand, they have their supply chain and everything set up for a 9,100 square foot building. It's the same floor layout of every store so that's their standard prototype.

Chairperson Stibbens - prototype typically means there's something different about it from their general store

Dysktra - It's their standard type store.

Chairperson Stibbens stated they always try to give equal amount of time to people who are for and against the project. Who is here to speak for the project?

No one spoke for the project.

Stibbens ask for anyone who is here to speak against the project.

Mr. Whittle, you will have three minutes to speak and everyone speaking against will have two minutes.

Rob Whittle, P.O. Box 369, Rockwall, Texas. I'm the owner of the property. Federal law is really interesting when it comes to real estate and real estate developers. Here's what the federal says that a seller of real estate, as long as it's a legal and ethical use, we must sell, period, as long as the buyer pays the asking price. The negotiation we've had with these folks, they've done exactly that. The size limitation does raise a concern between me and the city. We've worked really hard to get Brookshires to build a grocery store here on the site that they currently own and it sounds like their building would be prohibited. I've also had lots of negotiations with CVS and it sounds like their building would be prohibited. I think this is something that is going to have to be addressed at some point. My hope, as a seller of the property, whether we sell it to this company or someone else, here's what we desperately want. We want someone to build a beautiful-looking store that's compatible with the architecture that's already been set by that convenience store.

Jody Wright, 1513 Barrilo. I am all for commercialization in our area as a way to support resident tax relief. I do believe the responsibility of anybody on a committee is to look at businesses that actually support our citizens and what we know about the type of development that this developer is proposing is from a socio-economic class. The shoppers of a Dollar General are actually of a less status than those of a Walmart. The size of his store as we know, is not a prototype, it's actually a standard store, so I'm not sure why there was a discrepancy in the description of that, but it makes me question the integrity of all of the data that was presented is that they employ less than a dozen employees. Over half of those are less than full-time. So, they're not exactly meeting needs of the residents of McLendon-Chisholm. I'm concerned about the ingress/egress of this store, of where they are proposing the development be located at. I don't know if we have the infrastructure to support that on a two-lane highway. So, I would ask that you consider all of those issues. The other concern that I have is that the first thing the developer says upon coming up here is that they are committed to meeting the building similarities of the Sonic that's currently there and yet he felt it extremely necessary as did Mr. Whittle, to point out that 9/1 there are different building code regulations going on, so I'm curious again what is the point of pointing that out. Either you're here to meet what the building codes are or you're not. I just found it an interesting curiosity on something for the committee to consider.

Adriene Balkum, 1518 Fireside Ct. Approval of a variance is based on a property hardship, conditions or circumstance. It appears primarily based on what was submitted it is being caused by the applicant Vaquero McLendon Partners, LP. Based on previous information reviewed regarding Dollar General prototypes as listed in the

application I believe that the applicant, Vaquero McLendon Partners, LP is mistaken of the 2019 prototype standards for Dollar General. I do not agree with the parking lot and the potential element that is currently presented in this plan for traffic concerns. Even if in the next 10 years we do have FM 550 widened, I do not believe it would resolve the problem that could potentially be traffic problems based on what was submitted. I would recommend for the Board to not approve the application for Vaquero McLendon Partners, LP.

Mike Donegan, 2620 Ridgelake Lane. I honorable, respectfully, ask that the board deny this request. It's not about Walmart or Brookshire, the applicant has asked for a 150% increase in the dimensions that are listed in that zoning ordinance. I think to grant that request would be essentially to disregard the dimensions that are in the zoning area and would set a bad precedent.

Robert Quinn, 1401 Corraza Dr. They're trying to squeeze ten pounds of fertilizer into a five-pound bag. We know that there is going to be some widening of roads that's going to lead to some loss of property. They're already short on parking spaces. For all they say, their previous properties have been maintained and upheld. If you drive past a dollar store that's been there longer than two years, you know that the properties, generally speaking, are not maintained, not upheld and again, there's not enough room there for what they're asking for. So, I would encourage you to please deny on all counts.

Mark Kipphut, 31 Fireside. Based on your comments, Ms. Stibbens, I was going to restrain from what I commented, but unfortunately, the applicant actually brought up the nature of the store, so I think we need to discuss the elephant in the room. I quote from yesterday's paper in Kansas, community concerns are taken into consideration when placing a Dollar General Store, Angela Petrov, the spokesperson for Dollar General. So, I asked Dollar General and the applicants to take into consideration the community's concerns. Dollar Generals are pretty much everywhere around, 15,600 across the nation, fifteen hundred in Texas and a hundred and eight-five within 50 miles of us, and forty-six if we drop it down to twenty miles, and ten miles if it's seven. It's not an absence of need in that area. What I would argue is it's not a good fit for this community. We are a city of 2,500 people. We're growing. We are well within ten miles of any major retail that we need. What it does and what that map I showed you, it shows a hole that exists within Dollar General's strategy and their strategy is to saturate the market. If Dollar General is granted access into the community of McLendon-Chisholm, it would deny, and I take exception with what Mr. Whittle said, I understand what he brought up about the size of the building, but Brookshires won't come here because they're not going to try to come in and compete. So, I just want to finish with one quote, so I looked up Dollar General, and by their own admission, Dollar General caters to low to middle income customers who can be strained by a variety of economic factors including immigration policies, trade conflict, fuel prices, rent and health care cost, government assistance programs and workspace automation. In fact, 80% of their products are priced at or below \$5. The typical customer spends 10 to 12 dollars per visit. Their target audience is a combined income per household of \$40,000. Somebody needs to explain to me how that fits into McLendon-Chisholm where our average median home income is 127 thousand dollars. Our home prices are over

475,000. The average home cost is going to be more than the cost of the construction of this place. I respectfully request you deny both the applications.

Rick Landers, 107 Paddock. There are a lot of people here who are concerned about the name on the building. I just don't think we should give them any leeway on our building restrictions or requirements based on what everybody doesn't want. I'm asking you not to approve it.

Scott Turnbull, 1117 Newkirk Ct. I just want to read a couple of things out of the proposed operators ten most 10Q, which is the annual filing to the SEC by the corporation which explains their profits, their strategies, pretty much everything that affects their operation. The first thing I'm going to say is kind of repetitious of what Mr. Kipphut said, our core customers are the often the first to be affected by negative or uncertain economic conditions and that they are value conscious and many are at a low or and/or fixed income. But more to the point of what is being asked for tonight, is that we expect that our traditional seventy-three hundred square foot store format will continue to be the primary store layout for new stores, relocations, and remodels in 2019. We expect approximately 500 of the planned 1000 remodels in 2019 to use a higher cooler count store format that enables us to offer and increase sale of perishable items in addition to our smaller format store less than 6000 square feet allows us to capture growth opportunities in metropolitan areas as well as rural with low number of households. I would submit that the reason they want the bigger store is they want more coolers to sell more beer and wine, which is fine. I do request that you deny the variance

Michael Davis, 106 Chaney Place. For the sake of this variance, I would simply like to look towards do we need it, if we're going to make a variance for a 9100 square foot structure inside an area that is proposed for a 6000 square foot area. As pointed out by the developer, once that building exists, if that tenant changes for any reasons, their city is out of the discussion of what happens. That could become a beer and wine store that could become anything else if Dollar General, the proposed tenant in there opted to go a different direction. The structure exists so if the goal and scope of the board here is to look at whether the size of the variance is there then I would look to if we were going to put in a variance for it, is this the one you'd want to take the risk on. If it's there and we approve this and the tenant changes, they can still put whatever they want in that building and now you've locked in that option. I would certainly oppose you guys to not allow this variance tenant or otherwise and make sure what we have designed there fits in with what is intended for that business development.

Christopher Brainard, 410 Cattle Barron Drive. A lot of people here are talking about Family Dollar. We shouldn't be talking about Family Dollar, we should be talking about whether we should make an exception for a business that has absolutely no hardship whatsoever, to allow them to build 50% more building than they should be allowed to build. The answer is no. If we make an exception for them, to be fair to all businesses, we should make that exception for everybody, and why just a 9,000 square foot building, why not 12 or 15 thousand square feet. I just don't feel like it's the right decision at this time. So, if McLendon-Chisholm as a city, would like to allow larger

businesses, I'm all for the City Council pushing that. But, until they change the actual rules for the City, I think we stick with what we have.

Christine Reigh, 441 Briar Glen. I think this is going to have a negative affect on our local businesses, our mom and pop businesses, to have a store that size that's not a major store. It's like you said, it could be a liquor store or a Dollar Tree. They can put whatever they want in there. But we have a lot of mom and pop businesses in town and I like that atmosphere. I hope that you deny it so we don't have a conglomerate of junk stores.

Chairperson Stibbens closed the public hearing at 8:00 p.m.

Board Member Nikel – My primary concern is that allowing an oversized building requires a proportionate increase in the number of parking spaces available. What I've seen of that type of store, regardless of whose name is on it, they tend to not be highly populated and I find that driving past a vacant looking store with an empty parking lot unsightly.

MOTION: THE ZONING BOARD OF ADJUSTMENT IN APPEAL BOA 2019-002, ON APPLICATION OF VAQUERO MCLENDON PARTNERS, L.P., MOVES TO DENY THE APPLICATION FOR A VARIANCE TO THE COMMERCIAL DEVELOPMENT STANDARDS SECTION 4-13(E)(91) BUILDING FORM FOR A BUILDING WALL GREATER THAN 80 FEET CONTAINED IN THE CITY OF MCLENDON CHISHOLM ZONING ORDINANCE AND A SPECIAL EXCEPTION TO SECTION 4.13(E)(1) COMMERCIAL DEVELOPMENTS STANDARDS OF THE ZONING ORDINANCE TO ALLOW A SINGLE-STORY BUILDING WITH A FLOOR AREA GREATER THAN 6,000 SQUARE FEET SUBJECT BECAUSE OF EVALUATION OF THE PROPERTY AND THE TESTIMONY PRESENTED SHOWS THAT THE PHYSICAL CHARACTER OF THIS PROPERTY IS SUCH THAT A LITERAL ENFORCEMENT OF THE PROVISION OF THE CITY OF MCLENDON CHISHOLM ZONING ORDINANCE WOULD NOT RESULT IN UNECESSARY HARDSHIP TO THIS APPLICANT.

MADE BY: Board Member Fite
SECONDED BY: Board Member Bodart
APPROVED: Unanimously

11. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 8:03 p.m.

ATTEST:

APPROVED:

Lisa Palomba, City Secretary

Beverly Stibbens, Chairperson



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: May 26, 2020

APPLICANT: Steve Buis

LOCATION: 1625 FM 1139

REQUEST:

The applicant is requesting two variances to section 4-3 of the City of McLendon-Chisholm Zoning Ordinance. This section requires a lot frontage of 300 feet adjacent to the public way and a minimum lot size of 2.5 acres of land. The request is to reduce the required 300 feet of frontage to 169 feet and to reduce the required lot size from 2.5 acres to 2 acres.

PROPERTY OWNER: Steve Buis

REPRESENTATIVE: Steve Buis [property owner]

STAFF RECOMMENDATION: Approval subject to the following condition:

The owner shall plat the property in order to create a building site.

BACKGROUND INFORMATION:

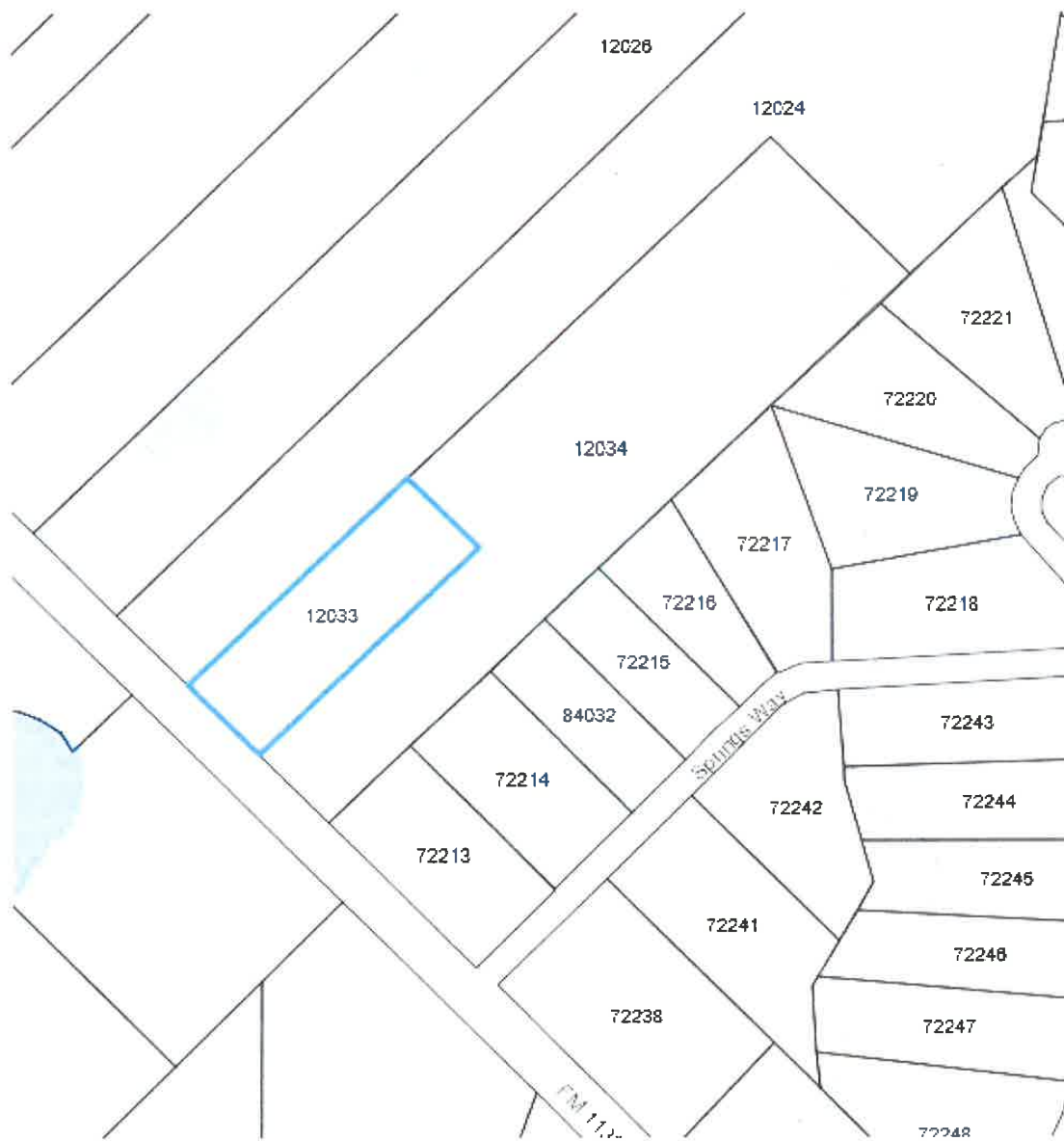
The subject property is a two Acre tract of land located at 1625 FM 1139. [Rockwall CAD No. 12033]. The zoning district for the subject property is SF 2.5. The SF 2.5 zoning district requires a minimum lot size of 2.5 acres of land and minimum lot frontage of 300 feet adjacent to the street right of way. [the current zoning map shows the larger parcel in red].

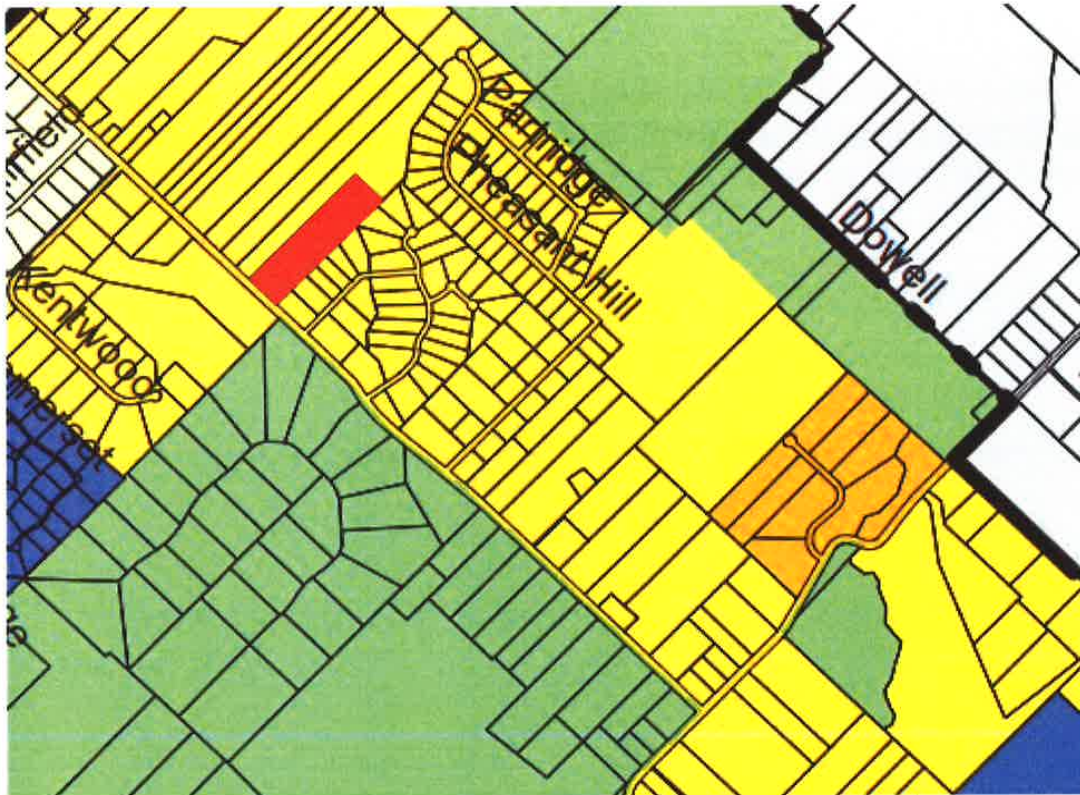
The subject property is a two acre part of a 10.7 acre tract of land located on the northeast side of FM 1139 north of FM 550. [See the attached Rockwall CAD map with the subject property outlined in blue].

The former property owner [Steve Buis] sold the adjacent 8.7 acres to the Alexander's under the incorrect belief that the property was located in the extra territorial jurisdiction of the City. Mr. Buis retained the two acres with the intent to build a new home on the property subject to approval of the requested reduction in the required street frontage along FM 1139 and the reduction in the required lot size.

Thoroughfares/streets:

FM 1139 is shown as a two-lane undivided collector roadway.





Note: The City Subdivision Regulations do not require platting of residential property in excess of five acres of land when the intended use is for an agricultural or residential use, however for lot size five acres or less, platting is required to establish a legal building site.

Powers of the Board:

G. **Variances.** The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

1. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
2. Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general

purpose and intent, but only when the board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and at the same time, the surrounding property will be properly protected.

3. The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the mayor or his/her designee in the enforcement of this ordinance. Except as otherwise provided herein, the board shall have, in addition, the following specific powers:

- (a) To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the master plan and present no conflict or nuisance to adjacent properties.
- (b) To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
- (c) To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
- (d) To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use.
- (e) To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.
- (f) A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
- (g) That 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;
- (h) 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;
- (i) That the special conditions and circumstances do not result from the actions of the applicant;

(j) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and

(k) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.



SURVEY PLAT



BRIAN S. RHODES Registered Professional Land Surveyor (972) 475-8940

This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. 1625 FM 1139, in the city of ROCKWALL, ROCKWALL COUNTY, Texas.

STATE OF TEXAS:
COUNTY OF ROCKWALL:

BEING a tract of land situated in the J.C. Newell Survey, Abstract No. 166, in the City of McCloud-Chisholm, Rockwall County, Texas, and being conveyed to Steve Buis, as recorded in Volume 2019, Page 16087, of the Deed records of Rockwall County, Texas, as shown on survey and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod found for corner on the Northeast right-of-way line of FM 1139, being the South corner of a tract of land conveyed to Jeffrey and Ann Epps, as recorded in Volume 2367, Page 167, of the Deed records of Rockwall County, Texas, and being the West corner said Buis tract;

THENCE North 45 degrees 04 minutes 31 seconds East, a distance of 515.33 feet to a 1/2 inch yellow-capped iron rod set for corner, said point being the PLACE OF BEGINNING;

THENCE North 45 degrees 04 minutes 31 seconds East, a distance of 863.39 feet to a 1/2 inch yellow-capped iron rod found for corner;

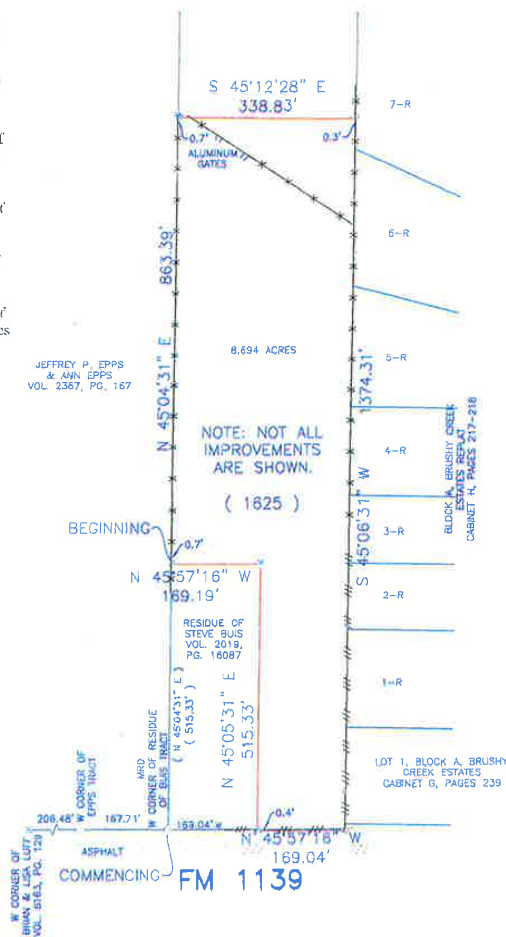
THENCE South 45 degrees 12 minutes 28 seconds East, a distance of 338.83 feet to a 1/2 inch iron rod found for corner;

THENCE South 45 degrees 06 minutes 31 seconds West, a distance of 1374.31 feet to a 1/2 inch iron pipe found for corner on the Northeast right-of-way line of said FM 1139;

THENCE North 45 degrees 57 minutes 16 seconds West, a distance of 169.04 feet to 1/2 inch yellow-capped iron rod set for corner;

THENCE North 45 degrees 05 minutes 31 seconds East, a distance of 515.33 feet to 1/2 inch yellow-capped iron rod set for corner;

THENCE North 45 degrees 57 minutes 16 seconds West, a distance of 169.19 feet to the PLACE OF BEGINNING and containing 8.694 acres of land.



THIS TRACT MAY FALL UNDER THE REQUIREMENTS OF PLATTING ACCORDING TO THE PLATTING LAWS OF THE STATE OF TEXAS AND ROCKWALL COUNTY. RHODES SURVEYING REQUESTS THAT THE AFFECTED PARTY (BUYER OR SELLER) CONTACT THEIR LOCAL COUNTY COMMISSIONER TO DETERMINE IF THIS TRACT WILL HAVE TO BE PLATTED.

THIS CERTIFICATION DOES NOT TAKE INTO CONSIDERATION ADDITIONAL FACTS THAT AN ACCURATE TITLE SEARCH AND OR EXAMINATION MIGHT DISCLOSE.

BEARINGS ARE BASED ON RTK READINGS OF TEXAS COORDINATE SYSTEM OF 1983 (NAD83), NORTH CENTRAL ZONE (4202)

1529 E. I-30, STE. 106, GARLAND, TX 75043 - FIRM REGISTRATION NO. 10194052
The plat hereon is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat, the site, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and apparent easements. TITLE AND ABSTRACTING WORK FURNISHED BY STEVE BUIS
THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.

Scale: 1" = 200'
Date: 01/16/2020
G. F. No.:
Job no.: 105897-B
Drawn by: EK

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHER FOR ANY LOSS RESULTING THEREFROM.
THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR STEVE BUIS

LEGEND	
ROAD FENCE - 1/2" x 1/2"	1/2" x 1/2"
CHURN LIP - 1/2" x 1/2"	1/2" x 1/2"
IRON PIPE - 1/2" x 1/2"	1/2" x 1/2"
WIRE FENCE - 1/2" x 1/2"	1/2" x 1/2"
1/2" x 1/2" - MONUMENT OF RECORD DENSITY	1/2" x 1/2"
1/2" x 1/2" - YELLOW-CAPPED IRON ROD SET	1/2" x 1/2"
1/2" x 1/2" - YELLOW-CAPPED IRON ROD	1/2" x 1/2"
1/2" x 1/2" - IRON PIPE FOUND	1/2" x 1/2"
1/2" x 1/2" - IRON ROD FOUND	1/2" x 1/2"
1/2" x 1/2" - YELLOW-CAPPED IRON ROD FOUND	1/2" x 1/2"
1/2" x 1/2" - CLEAR OUT	1/2" x 1/2"
1/2" x 1/2" - SAIL MARK	1/2" x 1/2"
1/2" x 1/2" - FINE MORGAN T	1/2" x 1/2"
1/2" x 1/2" - LUMP IRON	1/2" x 1/2"
1/2" x 1/2" - WAREHOUSE	1/2" x 1/2"
1/2" x 1/2" - WATER VALVE	1/2" x 1/2"
(UNLESS OTHERWISE NOTED)	

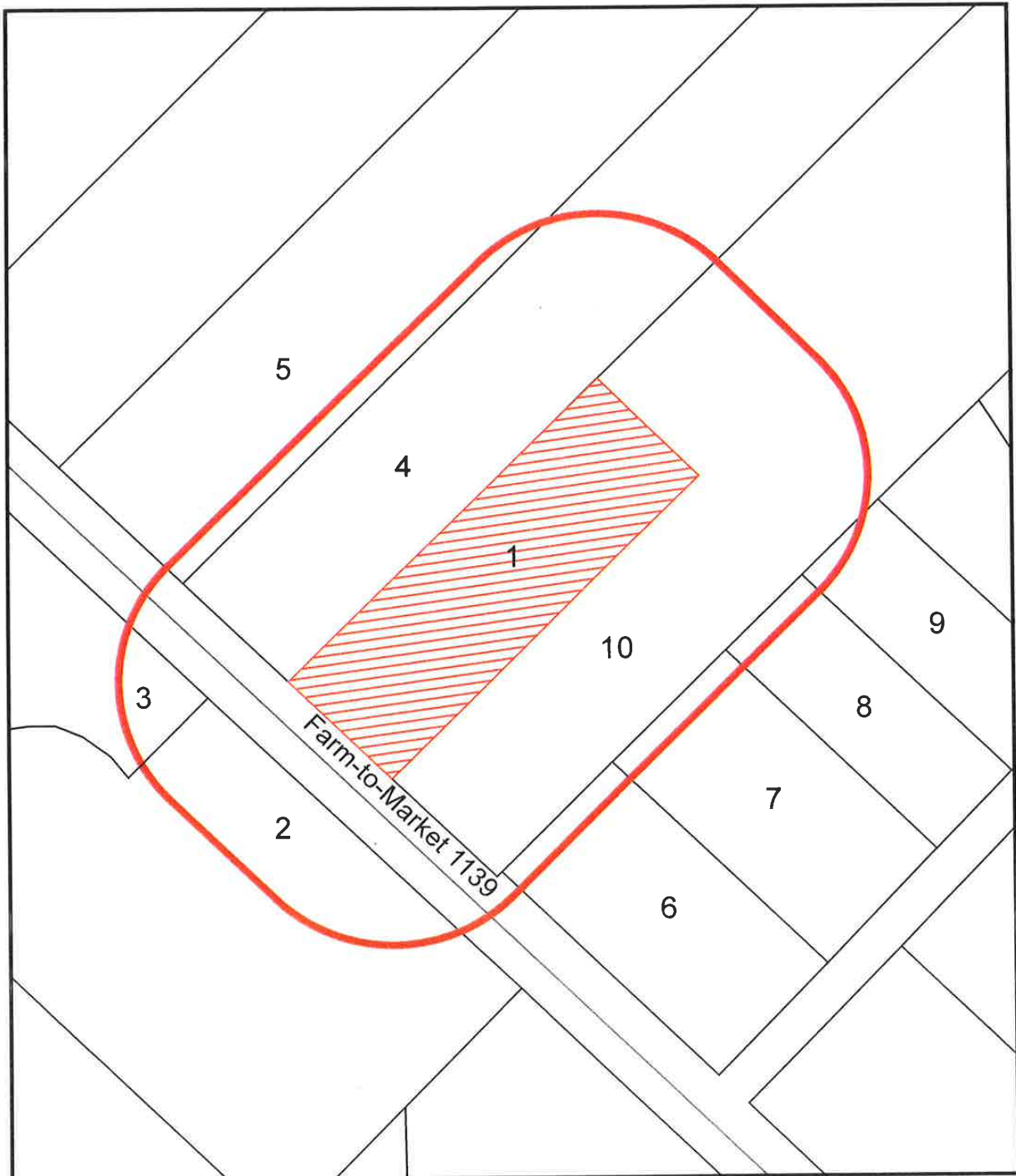


**CITY OF MCLENDON-CHISHOLM - BOARD OF
ADJUSTMENT- PUBLIC HEARING**

Notice is hereby given that the Board of Adjustment of the City of McLendon-Chisholm will meet and hold a public hearing at 7:00 p.m. on Monday, June 1, 2020 at McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas 75032. At such time and place, the Board will consider the application of Steve Buis, requesting a variance to reduce the lot size from 2.5 acres in a Single-Family 2.5 Acre Residential Zoning District to 2.0 acres; and, to reduce the minimum lot width from 300 feet to 169 feet in order to sell the property with an existing home. The property location is described as 2.013 acres, JC Newell, Tract 16, also described as 1625 FM 1139, McLendon-Chisholm, Texas. Citizens are invited to attend and participate in the public hearings. /s/ Rochelle Green, City Secretary.



**City of McLendon-Chisholm
Board of Adjustment
200' Notification Map**



**1625 FM 1139
Rockwall, Texas 75032**



1625 FM 1139, Rockwall, Texas 75032 – 200' Notification List

- ~~1.~~ Steve Buis
1625 FM 1139
Rockwall, Texas 75032
- ~~2.~~ Demetria Carter
1804 Kentwood Circle
Rockwall, Texas 75032
- ~~3.~~ Patrick & Patricia Short
1810 Kentwood Circle
Rockwall, Texas 75032
- ~~4.~~ Jeff & Ann Epps
5955 Glen Heather Drive
Dallas, Texas 75252
- ~~5.~~ Brian & Lisa Luff
1739 FM 1139
Rockwall, Texas 75032
- ~~6.~~ Mark & Shirley Taylor
1201 Springs Way
Rockwall, Texas 75032
- ~~7.~~ Troy Gastineau
1203 Springs Way
Rockwall, Texas 75032
- ~~8.~~ B'Ann T. & Christopher J. Crooks
1205 Springs Way
Rockwall, Texas 75032
- ~~9.~~ Geoffrey & Michelle Bliss
1209 Springs Way
Rockwall, Texas 75032
- ~~10.~~ Robert & Sonja Alexander
309 Partridge Drive
Rockwall, Texas 75032



RECEIVED

- 05262020 -
JR

CITY OF McLENDON-CHISHOLM, TEXAS

**NOTICE OF APPEAL TO THE
BOARD OF ADJUSTMENT**

Notice is hereby given that the Board of Adjustment of the City of McLendon-Chisholm will meet at 7:00 PM on Monday, June 1, 2020 at McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas.

At such time and place, the Board will consider the application of Steve Buis requesting variances to Zoning Ordinance Chapter 14, Section 4-2(c) Area Requirements, 1) to reduce the lot size from 2.5 acres in a Single-Family 2.5 Acre Residential Zoning District to 2.0 acres; and, 2) to reduce the minimum lot width from 300' to 169 feet in order sell the property with an existing home.

PROPERTY DESCRIPTION A01666 JC Newell, Tract 16, 2.013 Acres (RCAD
Property ID 12033)

Also described as 1625 FM 1139, McLendon-Chisholm, TX
75032

Information regarding the application may be obtained by calling 972-524-2077. Interested citizens are invited to attend this meeting of the Board of Adjustment.

The following may be filled out and returned to McLendon-Chisholm City Hall before the meeting date.

Check one: ☒ I am in favor of the request. ☐ I am opposed to the request.

Reasons: (attach a separate sheet as needed)

Signature: _____

Name (printed): _____

Address: _____

Telephone or E-mail (optional) _____

Please return this form to:

City of McLendon-Chisholm

1371 West FM 550

McLendon-Chisholm, Texas 75032

972-524-2077, fax 972-524-9128

email citysecretary2@McLendon-Chisholm.com



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: May 26, 2020

APPLICANT: Steve Buis

LOCATION: 1567 FM 1139

REQUEST:

The applicant is requesting a variance to section 4-3 of the City of McLendon-Chisholm Zoning Ordinance that requires a lot frontage requirement of 300 feet adjacent to the public way. The request is to reduce the required 300 feet of frontage to 169 feet.

PROPERTY OWNER: Robert and Sonja Alexander
309 Partridge Drive
Rockwall, Texas 75032

REPRESENTATIVE: Steve Buis [authorized by the property owner]

STAFF RECOMMENDATION: Approval subject compliance with the attached survey.

BACKGROUND INFORMATION:

The subject property is an 8.7 Acre tract of land located at 1567 FM 1139. [Rockwall CAD No. 12034]. The zoning district for the subject property is SF 2.5. The SF 2.5 zoning district requires a minimum lot size of 2.5 acres of land and minimum lot frontage of 300 feet adjacent to the street right of way. [the current zoning map shows the larger parcel in red].

The subject property is a larger part of a 10.7 acre tract of land located on the northeast side of FM 1139 north of FM 550. [See the attached Rockwall CAD map with the subject property outlined in blue].

The former property owner [Steve Buis] sold the subject property to the Alexander's under the incorrect belief that the property was located in the extra territorial jurisdiction of the City. The Alexanders intend to build a new home on the subject property subject to approval of the requested reduction in the required street frontage along FM 1139.

Thoroughfares/streets:

FM 1139 is shown as a two-lane undivided collector roadway.



Note: The City Subdivision Regulations do not require platting of residential property in excess of five acres of land when the intended use is for an agricultural or residential use.

Powers of the Board:

G. Variances. The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

1. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
2. Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and

unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and at the same time, the surrounding property will be properly protected.

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- (b) To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
- (c) To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
- (d) To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use.
- (e) To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.
- (f) A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
- (g) That 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;
- (h) 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;
- (i) That the special conditions and circumstances do not result from the actions of the applicant;

(j) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and

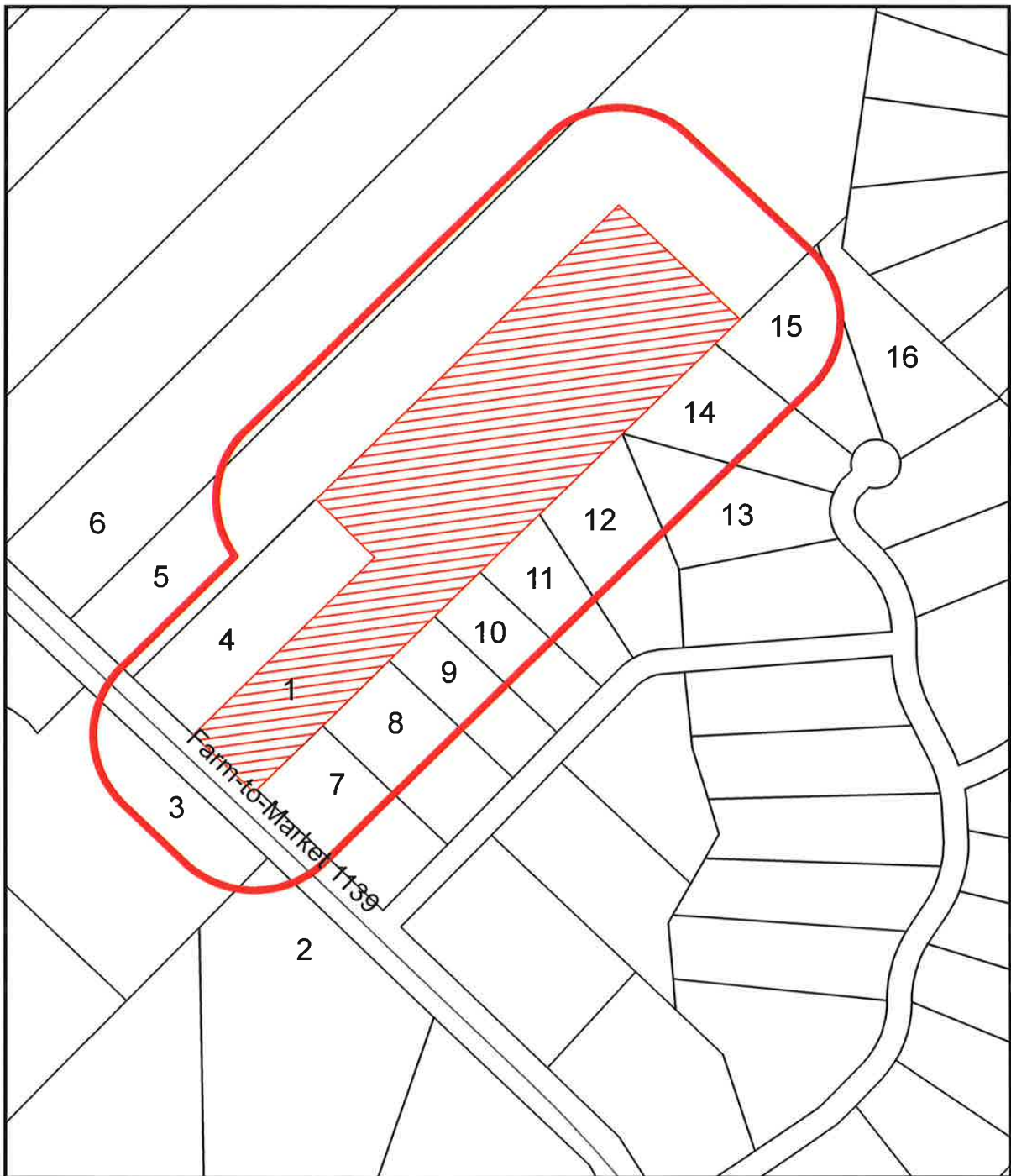
(k) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

**CITY OF MCLENDON-CHISHOLM - BOARD OF
ADJUSTMENT- PUBLIC HEARING**

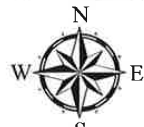
Notice is hereby given that the Board of Adjustment of the City of McLendon-Chisholm will meet and hold a public hearing at 7:00 p.m. on Monday, June 1, 2020 at McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas 75032. At such time and place, the Board will consider the application of Steve Buis, requesting a variance to the minimum lot width from 300' to 169' for the purpose of building a new single-family home. The property location is described as 8.694 acres, JC Newell, Tract 16, also described as 1567 FM 1139, McLendon-Chisholm, Texas. Citizens are invited to attend and participate in the public hearings. /s/ Rochelle Green, City Secretary.



**City of McLendon-Chisholm
Board of Adjustment
200' Notification Map**



**1567 FM 1139
Rockwall, Texas 75032**



1567 FM 1139, Rockwall, Texas 75032 – 200' Notification List

- ~~1.~~ Robert & Sonja Alexander
309 Partridge Drive
Rockwall, Texas 75032
- ~~2.~~ Chisholm Associates LLC
2701 Sunset Ridge, Suite 607
Rockwall, Texas 75032
- ~~3.~~ Demetria Carter
1804 Kentwood Circle
Rockwall, Texas 75032
4. Steve Buis
1625 FM 1139
Rockwall, Texas 75032
- ~~5.~~ Jeff & Ann Epps
5955 Glen Heather Drive
Dallas, Texas 75252
- ~~6.~~ Brian & Lisa Luff
1739 FM 1139
Rockwall, Texas 75032
- ~~7.~~ Mark & Shirley Taylor
1201 Springs Way,
Rockwall, Texas 75032
- ~~8.~~ Troy Gastineau
1203 Springs Way
Rockwall, Texas 75032
- ~~9.~~ B'Ann T. & Christopher J. Crooks
1205 Springs Way
Rockwall, Texas 75032
- ~~10.~~ Geoffrey & Michelle Bliss
1209 Springs Way
Rockwall, Texas 75032
- ~~11.~~ Randy W McGerr
1213 Springs Way
McLendon-Chisholm, Texas 75032

- ~~12.~~ John & Lindsay Webb
1217 Springs Way
McLendon-Chisholm, Texas 75032
- ~~13.~~ Jeffrey W. & Deborah A. Webb
1407 Artesia Lane
McLendon-Chisholm, Texas 75032
- ~~14.~~ Jeffrey L. & Jennifer Cox
1413 Artesia Lane
McLendon-Chisholm, Texas 75032
- ~~15.~~ Sara Kristen Braden & Gordon Scott
1410 Artesia Lane
McLendon-Chisholm, Texas 75032
- ~~16.~~ Kenneth L. & Cheri Y. Rion
1412 Artesia Lane
McLendon-Chisholm, Texas 75032



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CITY OF McLENDON-CHISHOLM, TEXAS

NOTICE OF APPEAL TO THE
BOARD OF ADJUSTMENT

Notice is hereby given that the Board of Adjustment of the City of McLendon-Chisholm will meet at 7:00 PM on Monday, June 1, 2020 at McLendon-Chisholm City Hall, 1371 West FM 550, McLendon-Chisholm, Texas.

At such time and place, the Board will consider the application of Steve Buis requesting a variance to Zoning Ordinance Chapter 14, Section 4-2(c) Area Requirements to reduce the lot width to 169' in a Single-Family 5 (SF5) Acre Residential Zoning District requiring 300' minimum lot width for a future single-family home building permit.

PROPERTY DESCRIPTION A01666 JC Newell, Tract 16, 8.694 Acres (RCAD
Property ID 12034)

Also described as 1567 FM 1139, McLendon-Chisholm, TX
75032

Information regarding the application may be obtained by calling 972-524-2077.
Interested citizens are invited to attend this meeting of the Board of Adjustment.

The following may be filled out and returned to McLendon-Chisholm City Hall before the
meeting date.

Check one: ☐ I am in favor of the request. ☐ I am opposed to the request.

Reasons: (attach a separate sheet as needed)

1. It will devalue the community as a whole
2. It will decrease property values
3. We had to sign a plat map when we purchased this home agreeing to the community layout & that should be upheld. We were told all lots were 1/2 acres and purchase for that reason.

Signature: _____

Name (printed): Scott Braden

Address: 1410 Artesia Lane

Telephone or E-mail (optional) scottgbraden@hotmail.com

Please return this form to:

City of McLendon-Chisholm

1371 West FM 550

McLendon-Chisholm, Texas 75032

972-524-2077, fax 972-524-9128

email citysecretary2@McLendon-Chisholm.com

4. It should not change as approved only due to a challenge in construction. Every homeowner in this community purchased while knowing the plat. So did Dr Horton, their profit should not outweigh McLendon-Chisholm residents.