



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, JULY 22, 2019
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. SELECT CHAIRPERSON AND VICE CHAIRPERSON

4. APPROVAL OF BOARD OF ADJUSTMENT MEETING MINUTES

3 - 4

- 4.1. June 11, 2018
[June 11, 2018 BOA Minutes Draft](#)

5.

Consider the application of William Nelson, requesting a variance to the side 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.

5 - 48

- 5.1. Staff Report
[Nelson Request Staff Report](#)
- 5.2. Public Hearing
- 5.3. Discussion and action.

6.

Consider the application of Vaquero 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

49 - 62

- 6.1. Staff Report
[Staff Report Dollar General](#)
- 6.2. Public Hearing
- 6.3. Discussion and action

7. ADJOURN

I, Lisa Palomba, 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., July 18, 2019 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
June 11, 2018

Members Present:	Beverly Stibbens	Chairperson
	Herb Harker	Board Member
	Gary Nickel	Board Member
	Joe McCormick	Board Member, absent
	Frank Fite	Board Member

Staff Present:	Lisa Palomba	Assistant City Administrator/City Secretary
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1. Chairperson Stibbens called the meeting to order at 7:03 p.m. A quorum of the Board was present.

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

3. Minutes of May 7, 2018 Board of Adjustment Meeting Minutes.

Nickel, seconded by Harker, moved to approve the May 7, 2018 Meeting Minutes. A vote was cast and the motion carried with 4 in favor, 0 against.

4. Public Hearing –Chairman Stibbens opened the public hearing at 7:05 p.m. to receive comments regarding the request of Jose Estrada, requesting a materials variance from the 80% masonry requirement in order to use fiber cement siding and stone for home renovations for property described as 2.37 acres, Lot 10, Glen Hills Ranch, also described as 240 Briar Glen, McLendon-Chisholm, Texas 75032.

The following persons spoke during the public hearing:

Jose Estrada, 240 Briar Glen, presented his request. He commented that he worked with his architect to increase masonry materials to 68%. Estrada further commented that work on the home will increase the value comparable to other newly constructed homes in McLendon-Chisholm and will only improve the neighborhood.

There being no other speakers, Chairperson Stibbens closed the public hearing at 7:10 p.m.

5. Discussion and action regarding the request of Jose Estrada, requesting a materials variance from 80% masonry requirement in order to use fiber cement siding and stone for home renovations. The property location is described as 2.37 acres, Lot 10, Glen Hills Ranch, also described as 240 Briar Glen, McLendon-Chisholm, TX 75032.

May 7, 2018 Board of Adjustment - Minutes

Gary Nickel questioned the calculation of masonry on the plan and asked the applicant about the need for a variance. Ms. Estrada indicated the craftsman style home requires more siding than brick to maintain the style. The amount of stone was increased on the sides of the home bringing the masonry to 68%. The board asked Mr. and Mrs. Estrada if painted brick could be an option. They responded it was not an option.

Harker, seconded by Fite, moved to approve the materials variance to allow for 68% masonry for the renovation project. A vote was cast and the motion carried with 4 in favor, 0 opposed.

Fite, seconded by Harker, moved to adjourn the meeting. A vote was cast and the motion carried with 4 in favor, 0 against. The meeting adjourned at 7:22 p.m.

APPROVED:

ATTEST:

Beverly Stibbens, Chairperson

Lisa Palomba, City Secretary



BOARD OF ADJUSTMENT REPORT – CITY OF MCLENDON-CHISHOLM

AGENDA DATE: July 22, 2019

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 C 2 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

Suggested motions:

Approval: I 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:

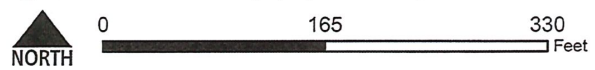
Compliance with the submitted site plan is required.

Denial: I move that the Zoning Board of Adjustment in Appeal BOA 2019-001, on application of William Nelson, deny the application for a variance to the side yard setback because our 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 unnecessary hardship to this applicant.

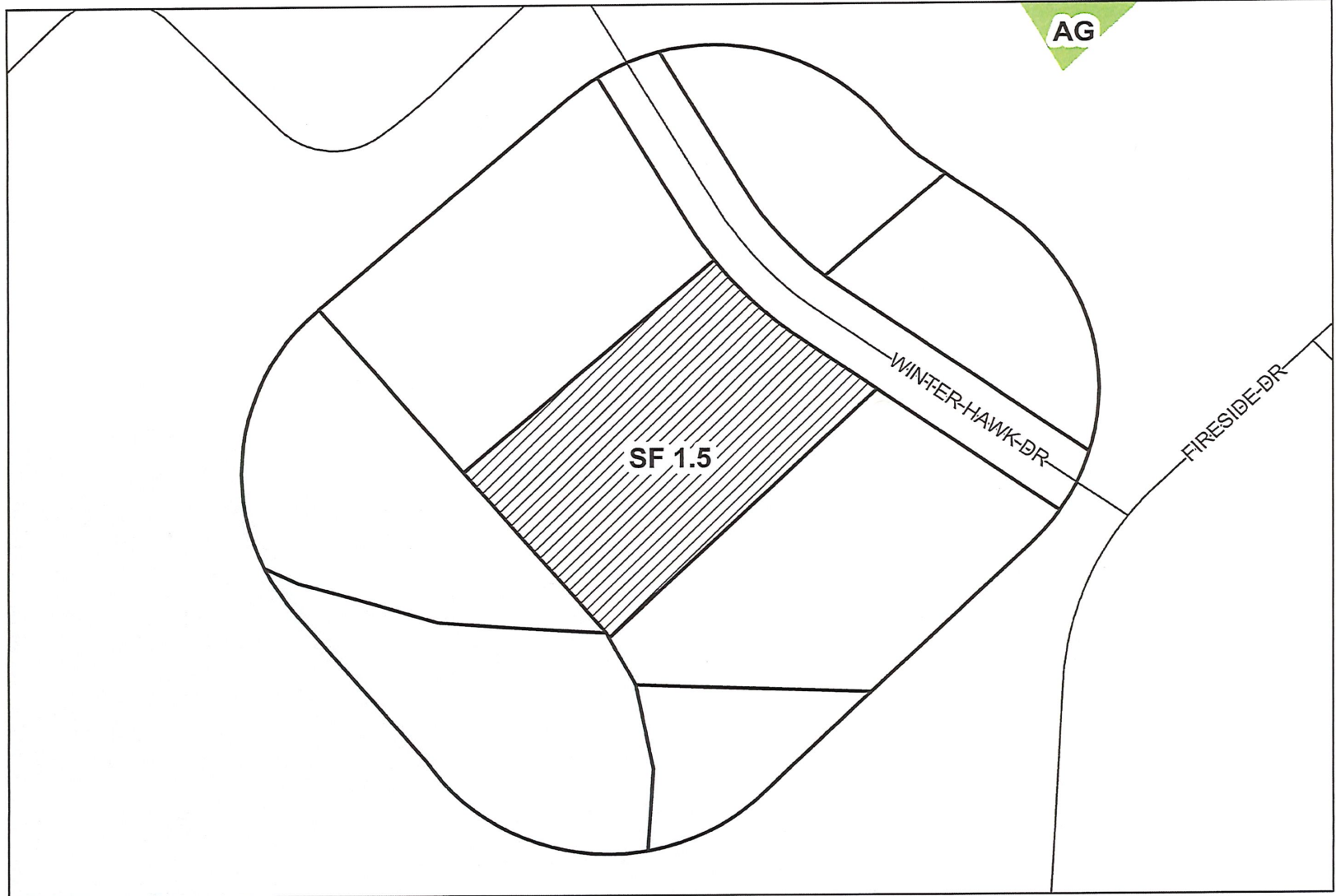
Postpone: I move that the Zoning Board of Adjustment in Appeal BOA 2019-001 hold this matter under advisement until _____.



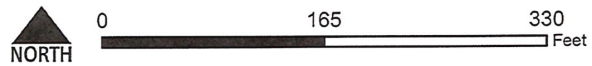
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the ground survey and represents only the approximate relative location of property boundaries. (Texas Government Code § 2051.102)



Aerial
BOA 2019-01



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the ground survey and represents only the approximate relative location of property boundaries. (Texas Government Code § 2051.102)



Zoning Map
BOA 2019-01



APPLICATION TO REQUEST A HEARING
BEFORE THE CITY OF MCLENDON-CHISHOLM
BOARD OF ADJUSTMENT

DATE OF APPLICATION 6/6/2019 CASE # _____
NAME OF APPLICANT William Nelson
ADDRESS 3 Winter Hawk Dr PHONE NO. 817-271-9707
Rockwall, Tx 75032 BUSINESS PHONE NO. Same
DESCRIPTION OF PROPERTY LOT NUMBER 11 BLOCK NUMBER A
LEGAL DESCRIPTION OF PROPERTY: Single Family Residence

ADDRESS OF PROPERTY: 3 Winter Hawk Dr Rockwall, Tx 75032
REASON FOR REQUEST (Please see attached documents)

SIGNATURE OF APPLICANT William Nelson

Applicant must provide a survey or plat showing location of proposed improvements and existing structures as related to all boundary lines, pictures and descriptions of project, materials descriptions and list of property owners and address within 200'.

FEE \$400.00 and All Consulting Fees

DATE/AMOUNT PAID: 6/10/19 \$400.00

RECEIPT #: 237678

FOR CITY USE ONLY

DATE AND TIME OF MEETING SCHEDULED _____

REQUEST FOR VARIANCE GRANTED/DENIED.

IF DENIED, REASON. _____

Reason for Request:

I am requesting a variance of property line to build an additional garage on my property. The location in the attached documents clearly shows this is the only area where it could be constructed. My property backs up to a soil conservation berm and does not allow enough area to build. The reasoning for building an additional garage is due to our vehicle theft that took place on September 2018 and most recently our neighbor's (1 Winter Hawk Drive) vehicle theft this May 2019. These vehicle thefts and car burglaries in our neighborhood have frightened my family and children. The additional storage space would allow me to park all vehicles safely and out of view. As I was reviewing my plat, I thought I would have plenty of space due to the 10.5' offset.

I have attached multiple documents for review.

Sincerely,

William Nelson
3 Winter Hawk Drive
Rockwall, Texas 75032
Wnelson66@hotmail.com
817-271-9707

William Nelson
(817) 271-9707
Wnelson66@hotmail.com
3 Winter Hawk Drive
Rockwall, Texas 75032

To the Board of Adjustment:

My name is William Nelson and I've been a resident in McLendon—Chisholm for the past 7 years and live in The Chisholm Crossing neighborhood. I recently decided to build a garage this past month to add extra room for vehicles, lawnmowers and golf cart. The reason for this request is due to our vehicle being stolen in September 2018 during the night in our driveway. My neighbor's vehicle, Randy Grey at 1 Winter Hawk Drive also had their vehicle stolen this May 2019 from their driveway. (Please let me know if police records are needed). These vehicle thefts had a very negative impact on my family, but most importantly my children. I know the best way to keep criminals away is to keep valuables hidden and that was my decision making process to build a garage.

I contacted a concrete company to begin the process of the garage (they have only done minor dirt work). After reviewing my HOA documents I thought I had the appropriate distance from the property line of 10.5' or more. I am currently at 16' and 13' of neighbor's property line (Please see attached photos). Prior to beginning construction I asked my neighbor Randy Grey at 1 Winter Hawk Drive permission and he said "yes". I filed a permit with the city and that's when I learned about the 25' rule to side yard and immediately stopped all dirt work.

I chose this specific location because of our current driveway being on the left side of the house. This is the only location where a garage could be constructed. (Please see attached aerial view and plat). According to my HOA, the addition must match the appropriate materials used on the home. The materials consist of matching brick, stone, paint and shingles. (Please see attached picture of home). I can assure you the building will look as good as the house.

I have attached examples of other properties that have met the 10' HOA requirement, but I believe they fall short of the city's requirement of 25'. (Please see attached documents).

I understand variances have been approved for this neighborhood in the past for both height and property distance.

I'm asking the Board of Adjustment to please carefully review my documents and grant me a variance. I am requesting this for safety and peace of mind for my family and believe it would be an enhancement to my home and street.

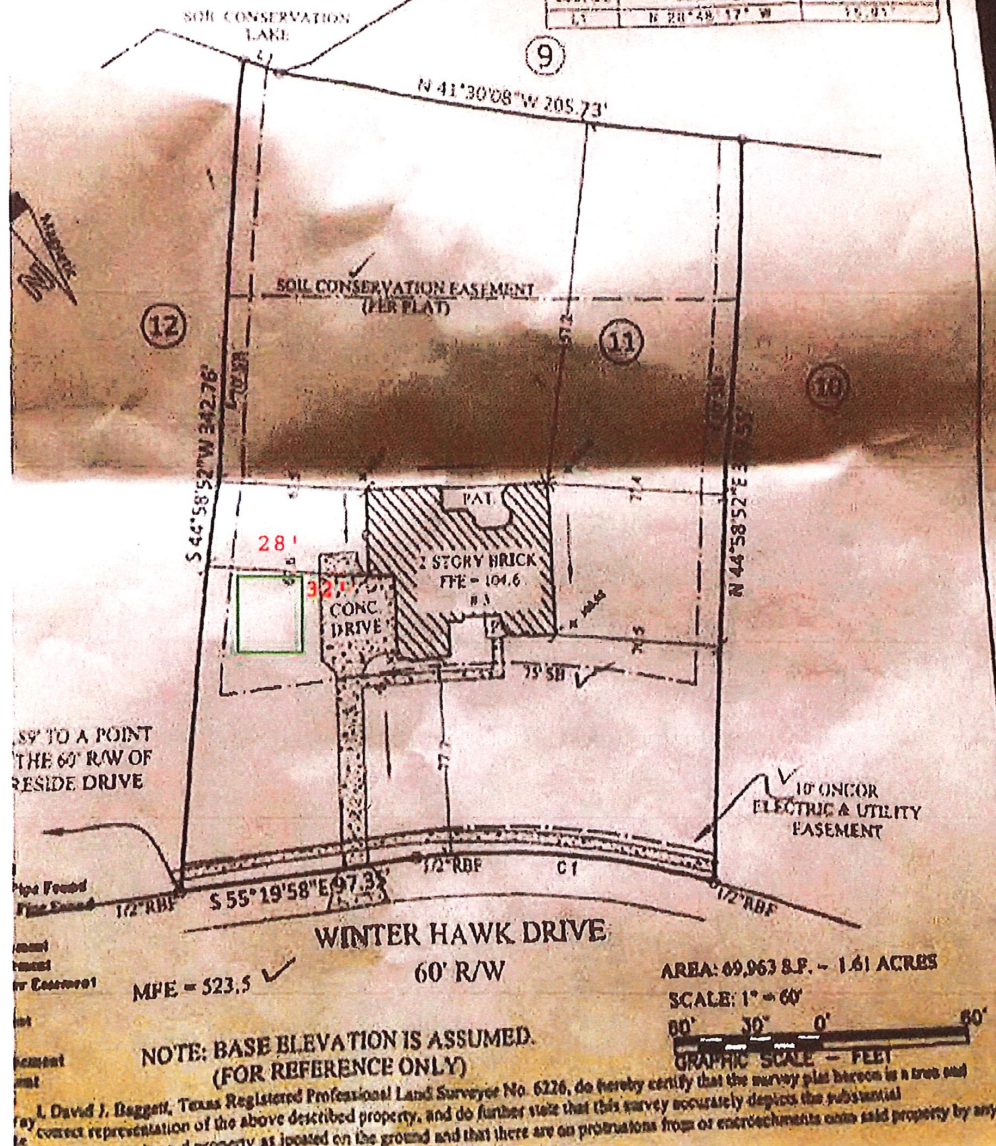
Please let me know if you have any questions or need additional documents.

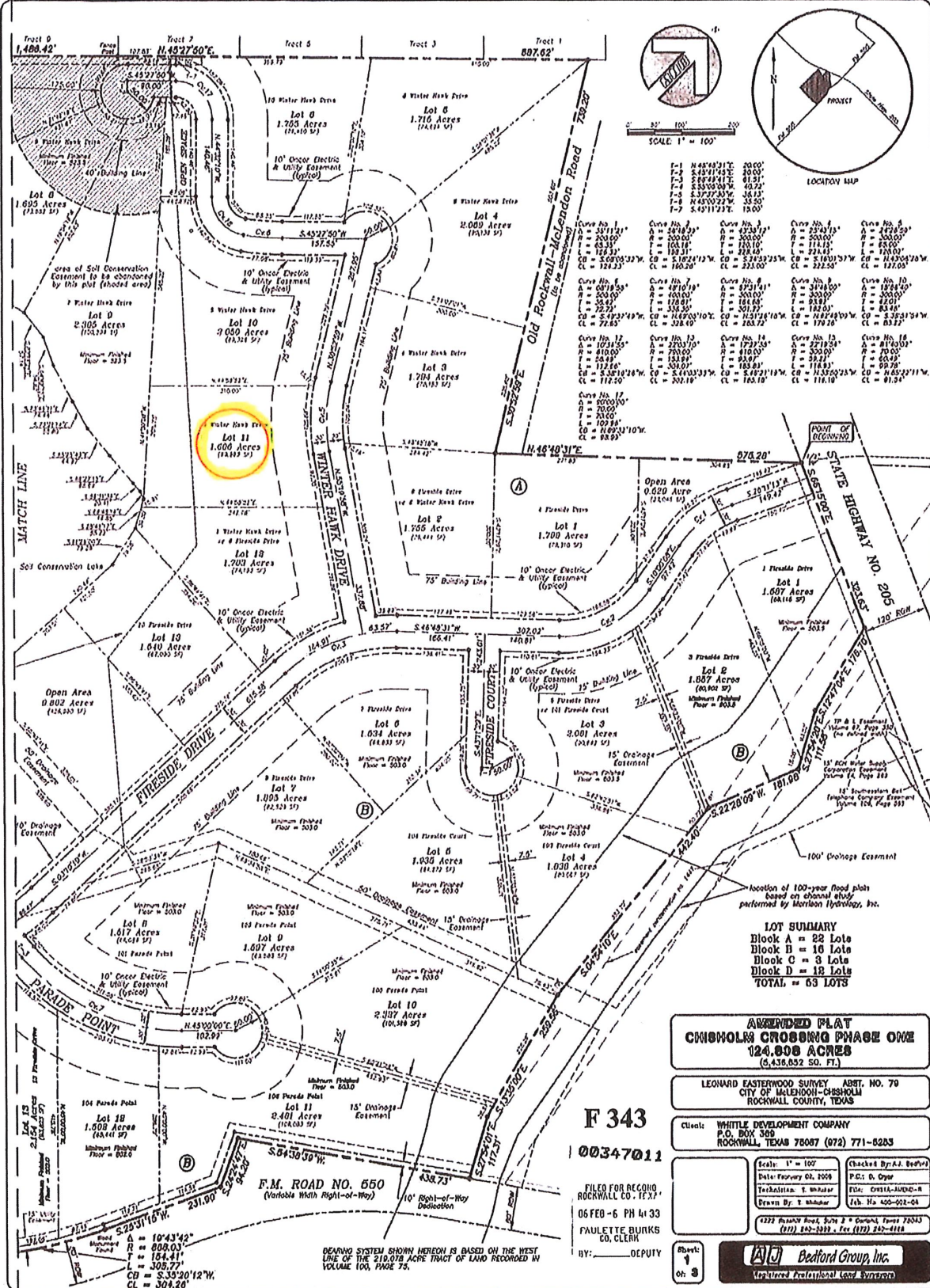
Sincerely,
William Nelson
3 Winter Hawk Dr
Rockwall, Texas 75032

MENTS RECORDED IN THE FOLLOWING
 JAMES AND PAGES DO NOT AFFECT THE
 PROPERTY DESCRIBED BELOW.
 N 115 VOL. 36, PG 499, VOL. 99, PG 83, VOL.
 101, PG 588 VOL. 103, PG 553

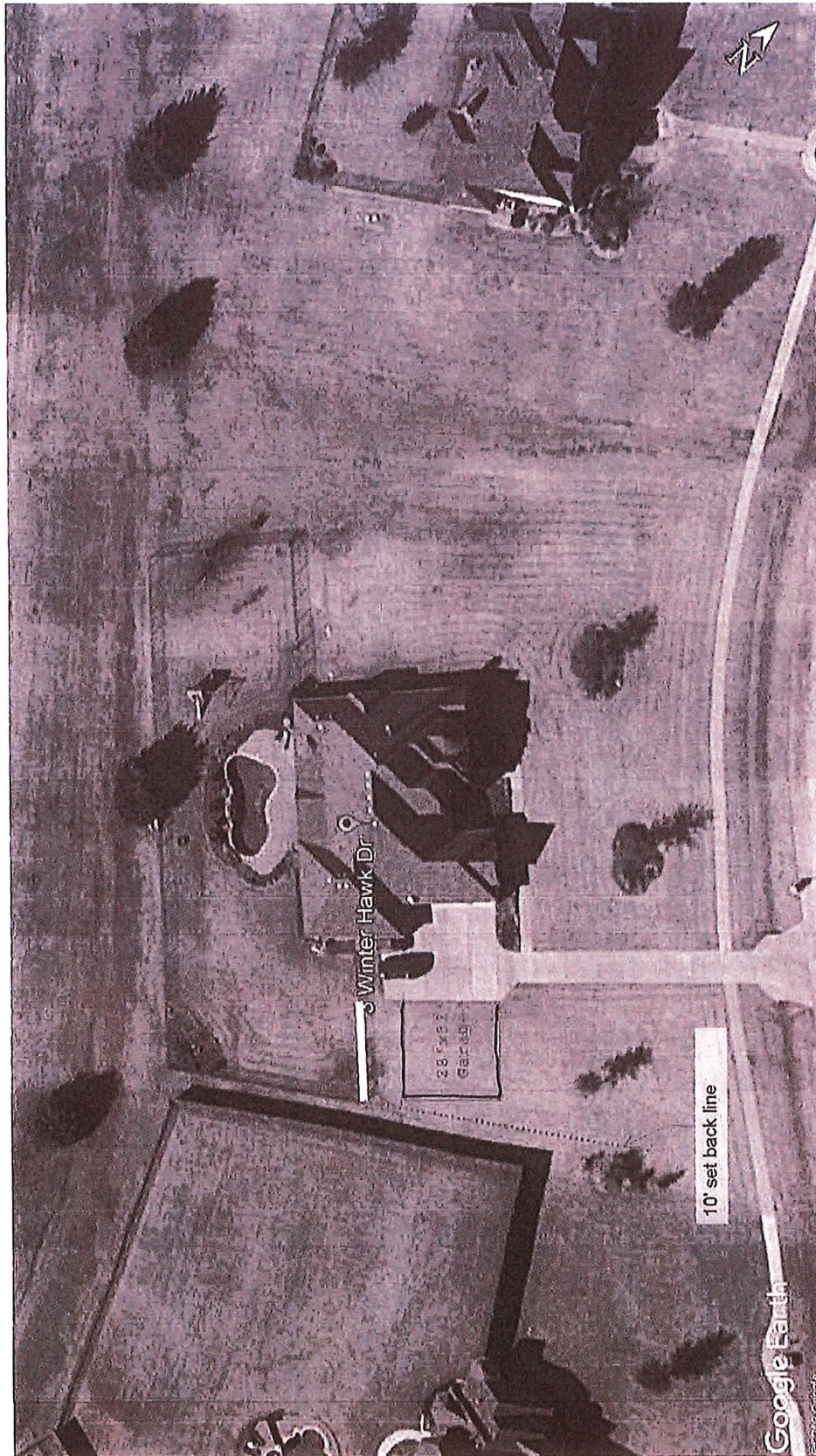
Curve	Radius	Length	Chord	Chord Bear.
C1	325.60'	125.60'	124.85'	S 44° 25' 47" E

Course	Bearing	Distance
13	N 20° 48' 17" W	15.91'









Chisholm Crossing Homeowners
c/o Associa North Texas
12700 Park Central Drive, Suite 600
Dallas, TX 75251
Telephone: 214-368-4030
Email: NTXcustomercare@associa.us
Website: www.associaonline.com

Date: 5/30/2019 1:42:56 PM

Project Ref: [60813571] 3 Winter Hawk Dr

William & Kerasten Nelson
3 Winter Hawk Dr
Rockwall TX 75032

Dear William & Kerasten Nelson,

I am pleased to inform you that the Chisholm Crossing Homeowners Architectural Review Committee has approved your application for the following project item(s):

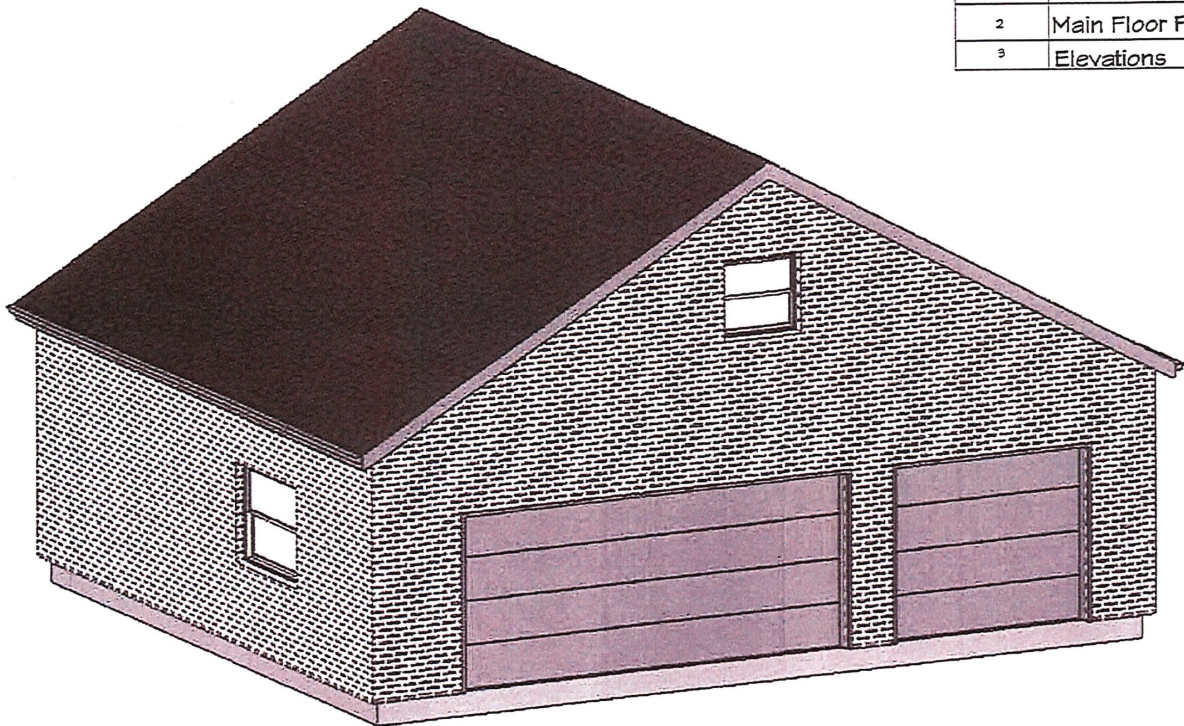
House Addition

The approval is contingent upon compliance with the specifications set forth in the approved application. If your change or addition requires a county, city or state permit, it must be obtained before construction.

Please retain this letter in your files. If you have any questions regarding this matter, please do not hesitate to contact us.

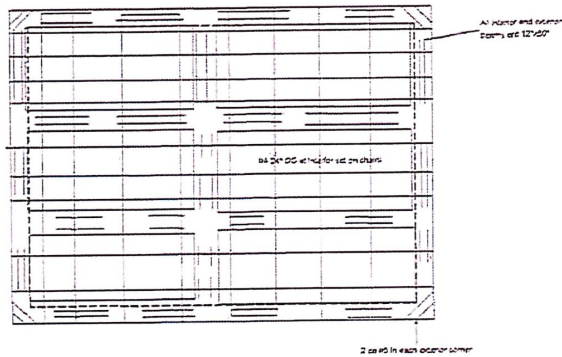
Sincerely,

Architectural Committee
Chisholm Crossing Homeowners



Drawing Package	
Page #	Title
1	General Overview
2	Main Floor Plan
3	Elevations

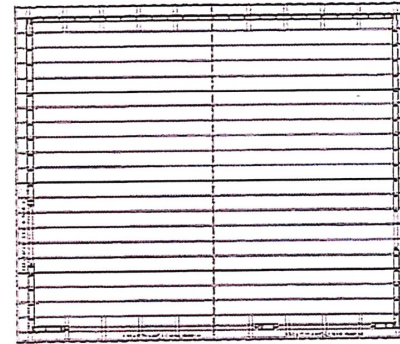
Nelson Garage 3 Killebrew Rockwall, Texas 75032	
William Nelson 817-271-4707	
DATE:	5/25/2019
SCALE:	1/4"
SHEET:	P-1



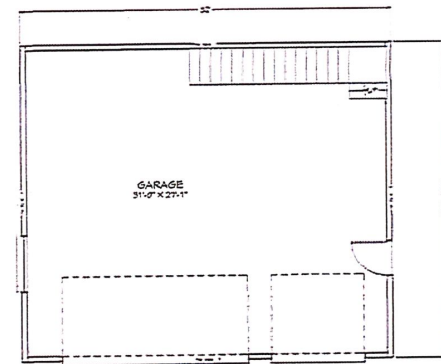
Foundation

Foundation Notes:

4" thick 5 sack concrete slab
over cushion sand base and 1 ply 15 mil polyethylene moisture barrier
2x6 treated/coated mudsill anchored 5" oc with 1/2"x12" anchor bolts
All exterior shop beams to be 12"x30"
All interior shop beams to be 12"x30"
2 ea #5's in top and bottom of all beams
2 ea #5 in each exterior corner
#4@24" O.C. in slab, ties at all intersections and set on chairs

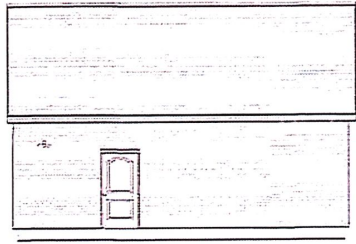


2x12 Ceiling Joists spaced 16" OC

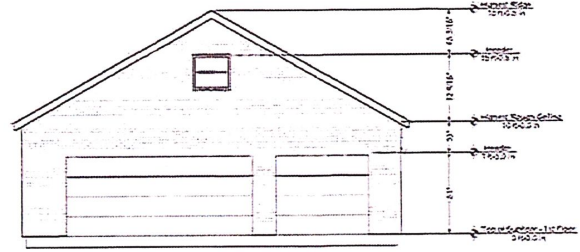


28'x32' Shop

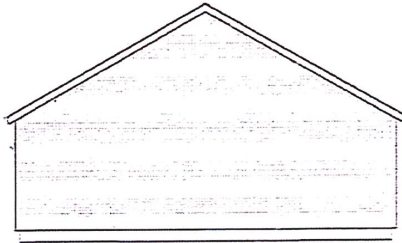
Nelson Garage 3 Killdeerhawk Redbush, Texas 75032	
William Nelson 817-271-4707	
DATE:	
5/28/2019	
SCALE:	
SHEET:	
2	



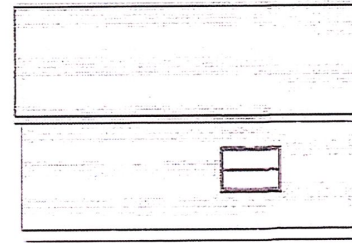
Elevation 3



Elevation 1



Elevation 4



Elevation 2

Nelson Garage
3 W. Main
Rockwell, Texas 75087

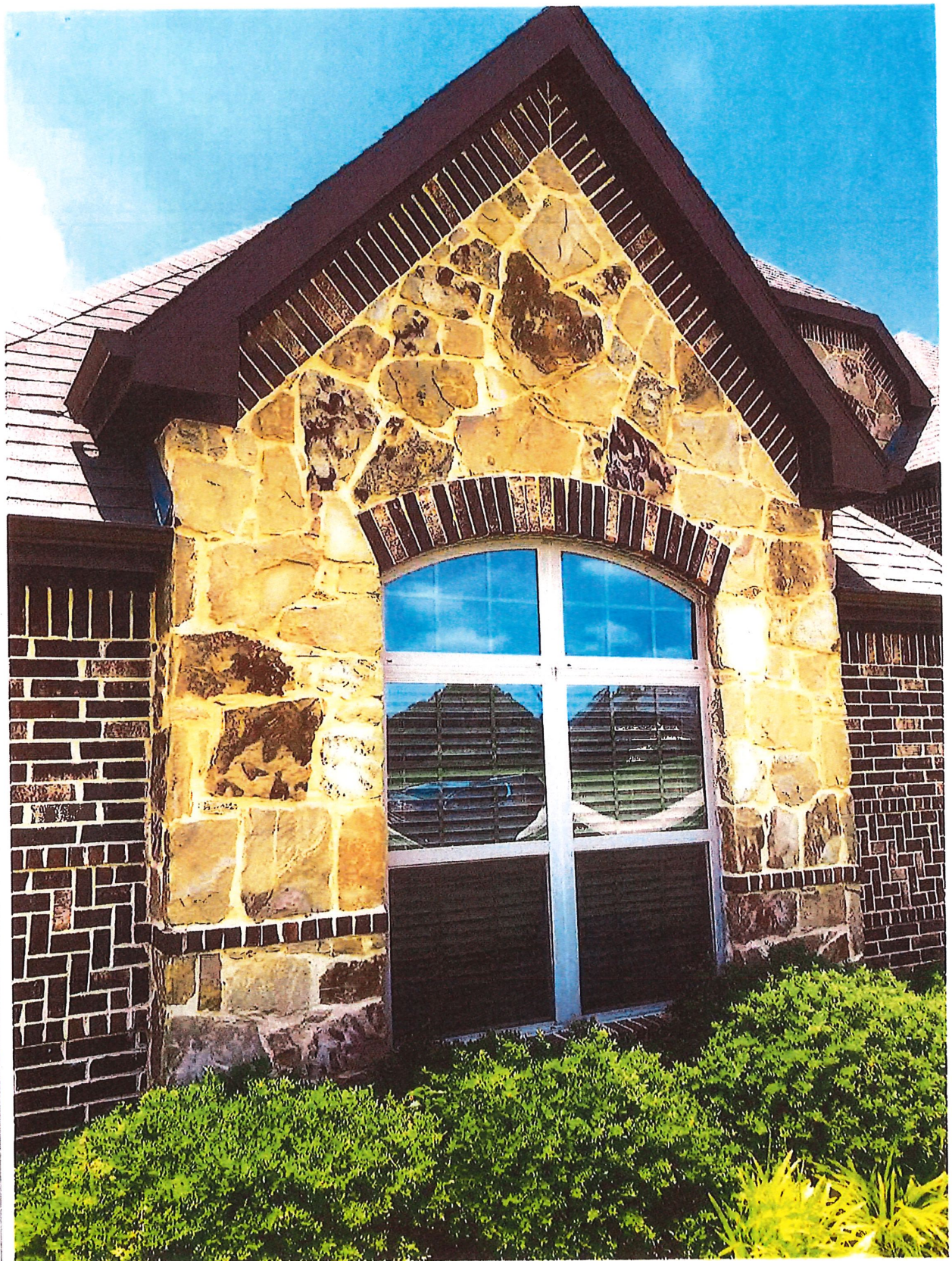
William Nelson
817-271-4707

DATE:
5/28/2019
SCALE:
SHEET:
1

Building Materials:

The exact same brick, stone and shingles will be used in construction.





To the Board of Adjustment:

This is a picture of my neighbor's fence (Randy Grey at 1 Winter Hawk Drive) which is 8' tall and the only wooden fence allowed in the neighborhood. This fence was grandfathered in prior to an HOA; his fence will block the majority of his view to the structure which he already agreed to let me build.



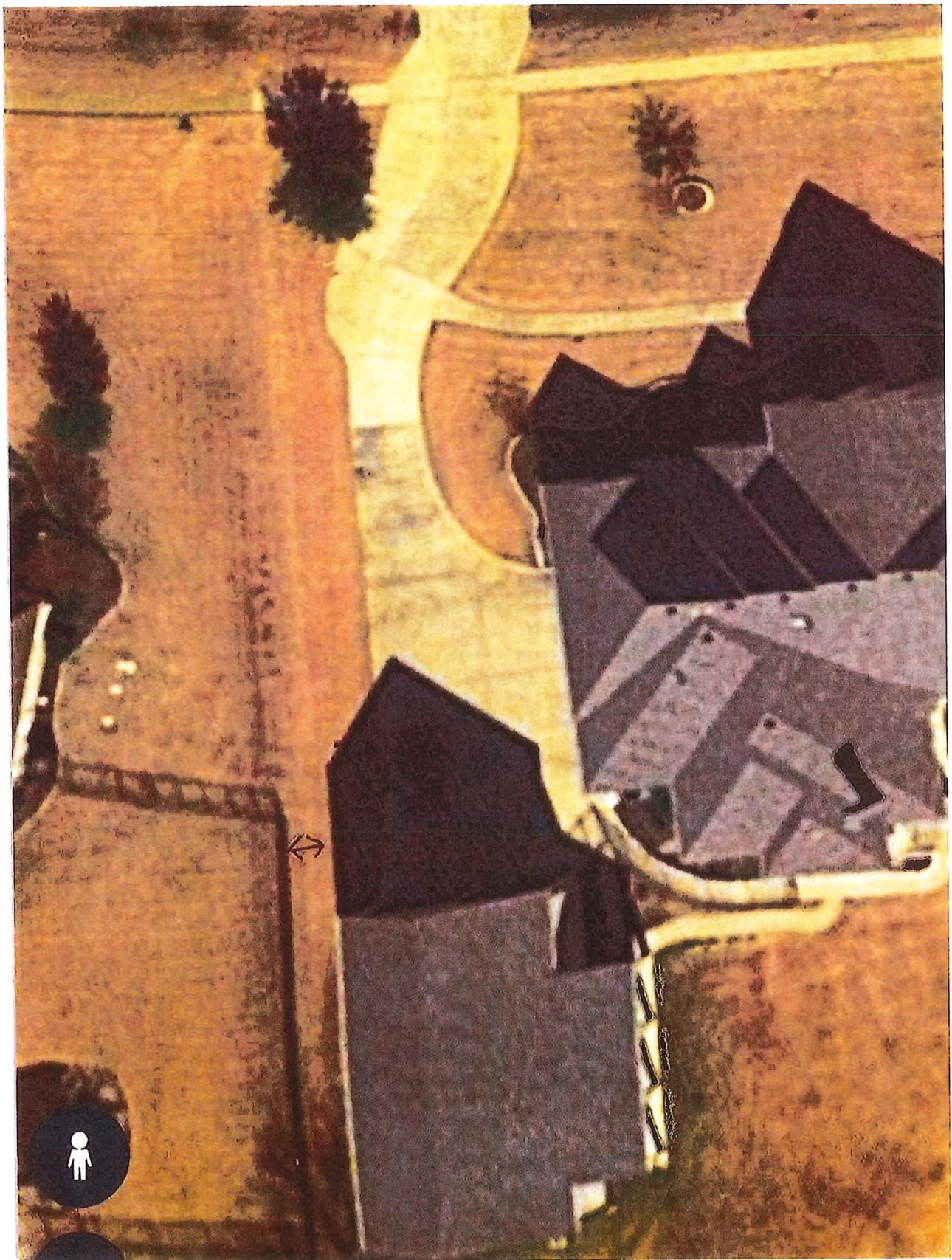


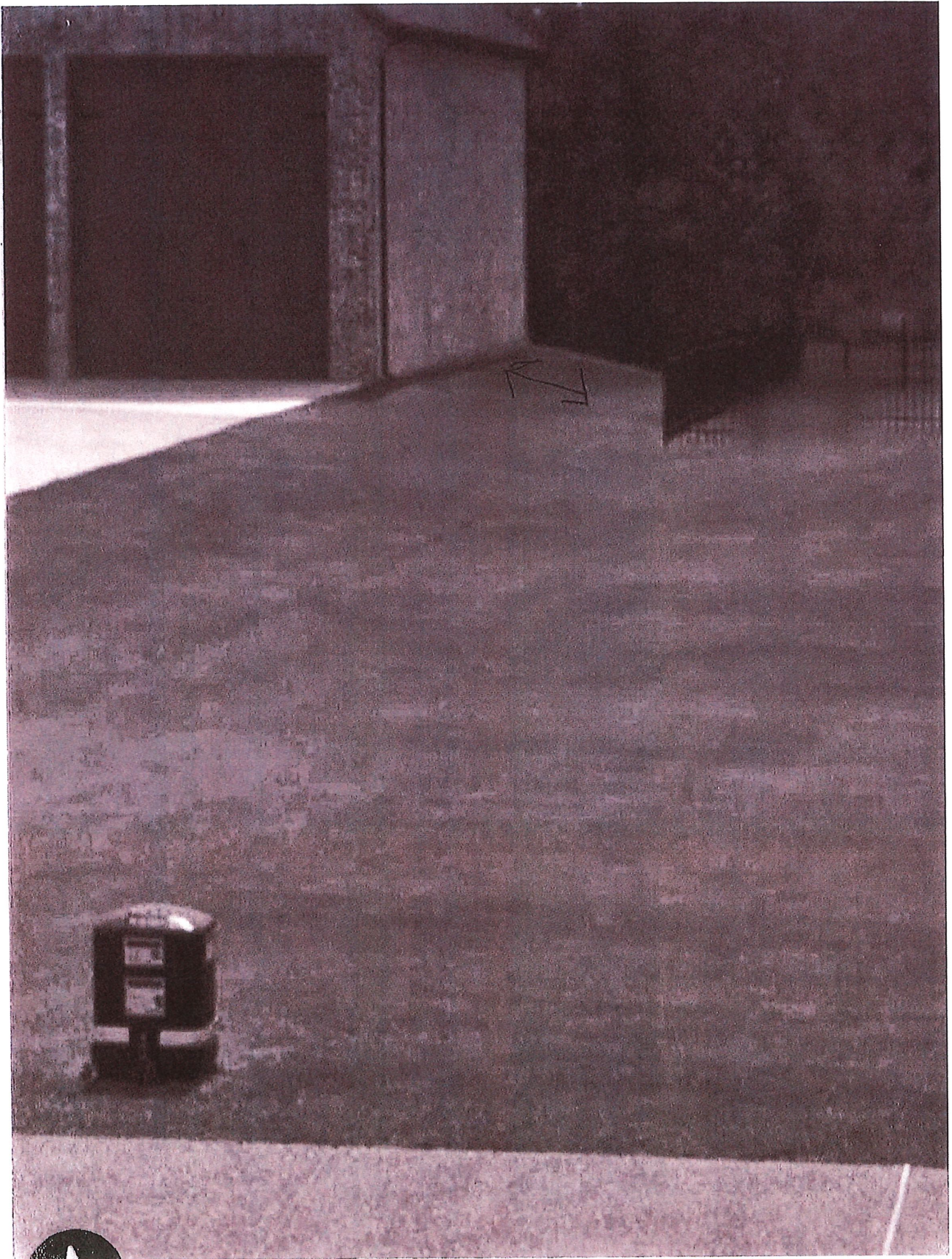




Example:

45 Fireside Drive

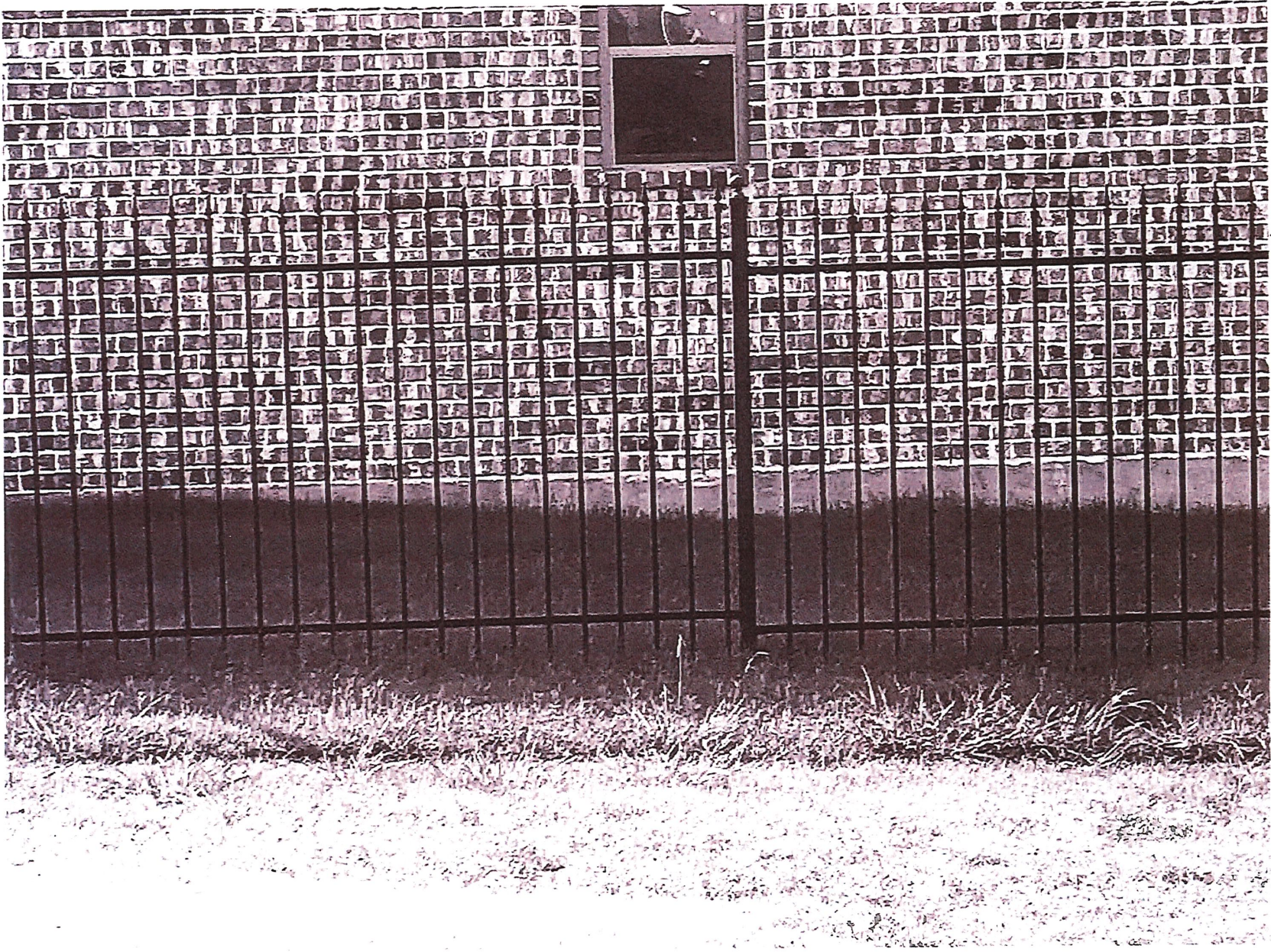


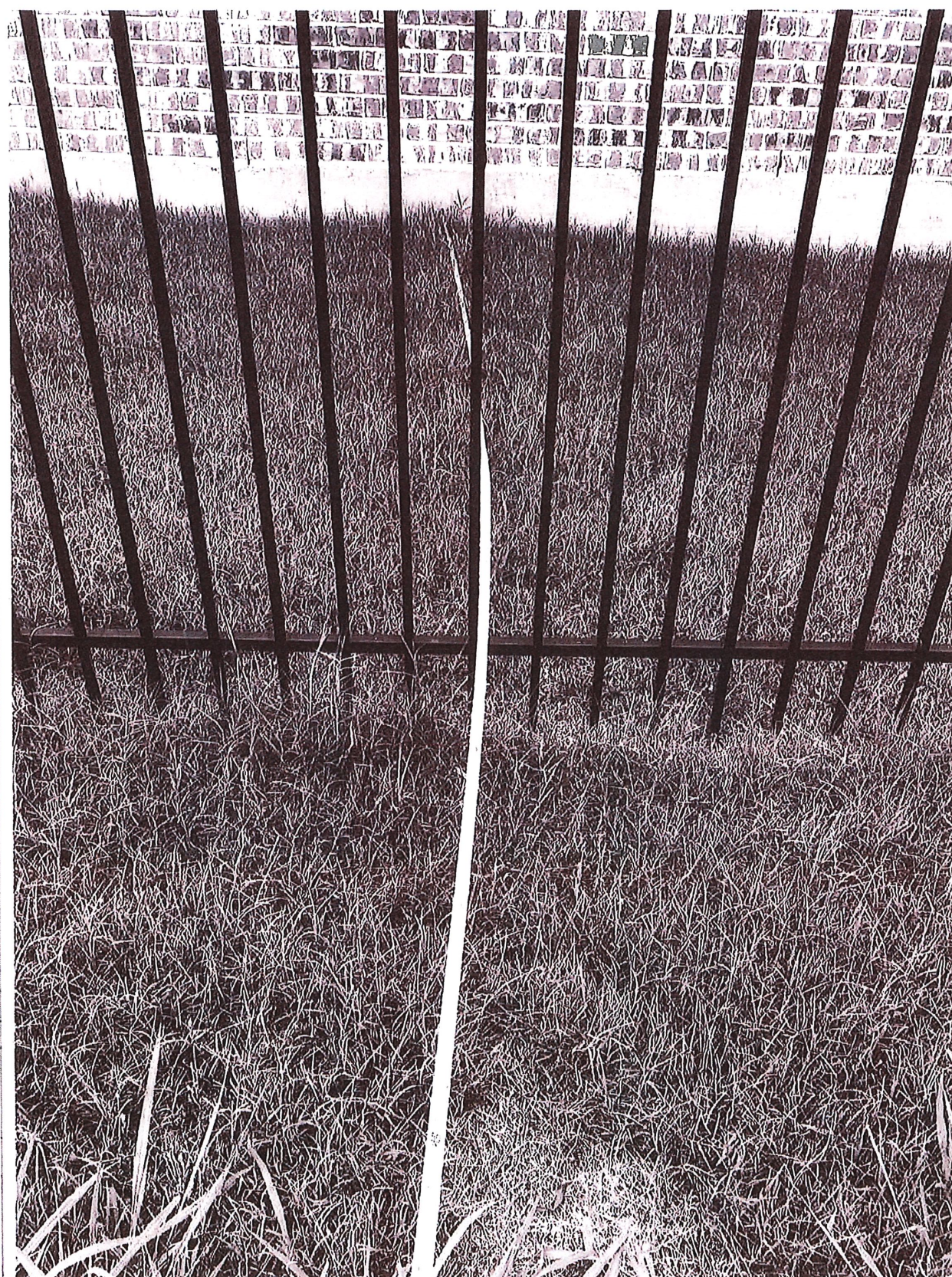


Example:

12 Granite Ridge



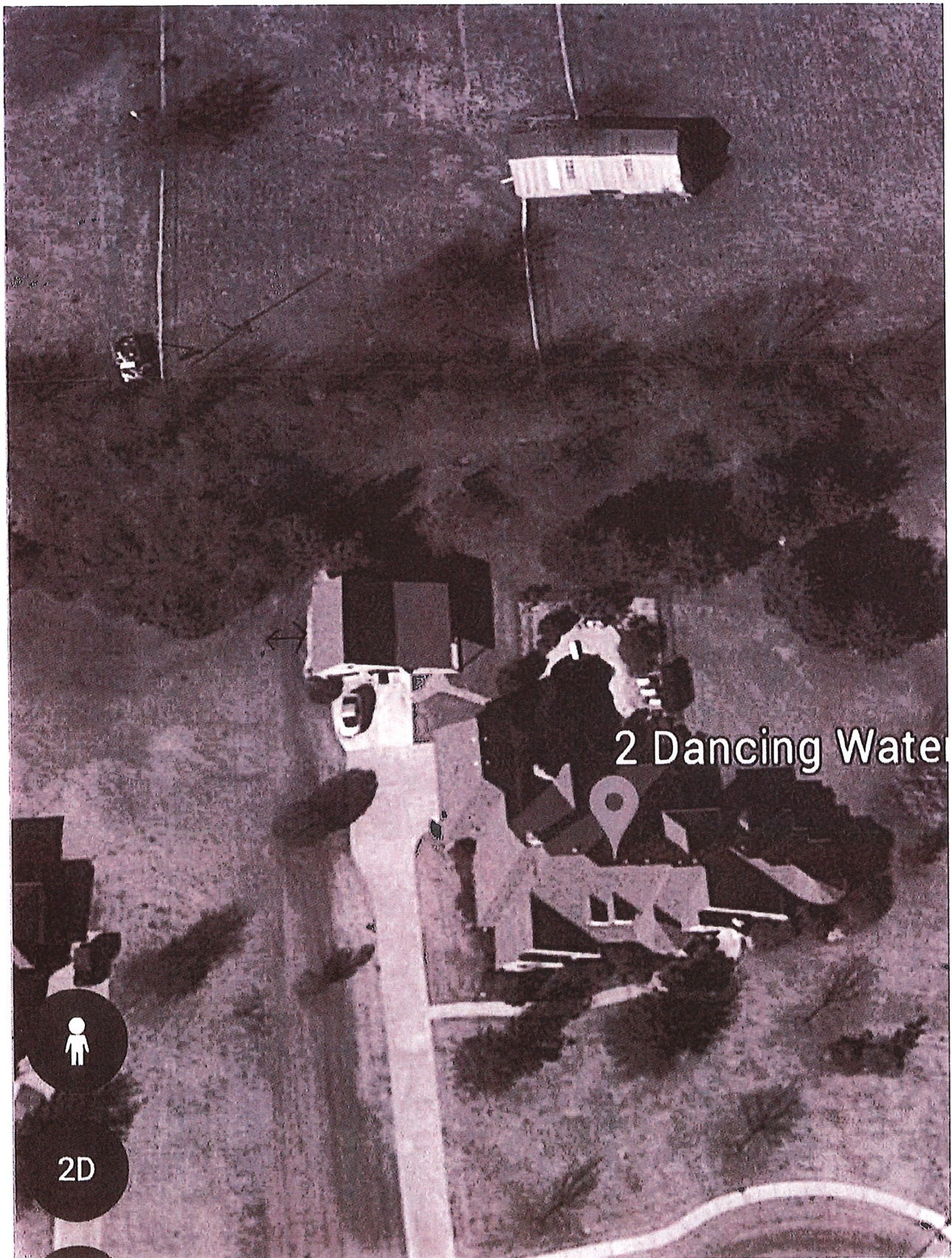






Example:

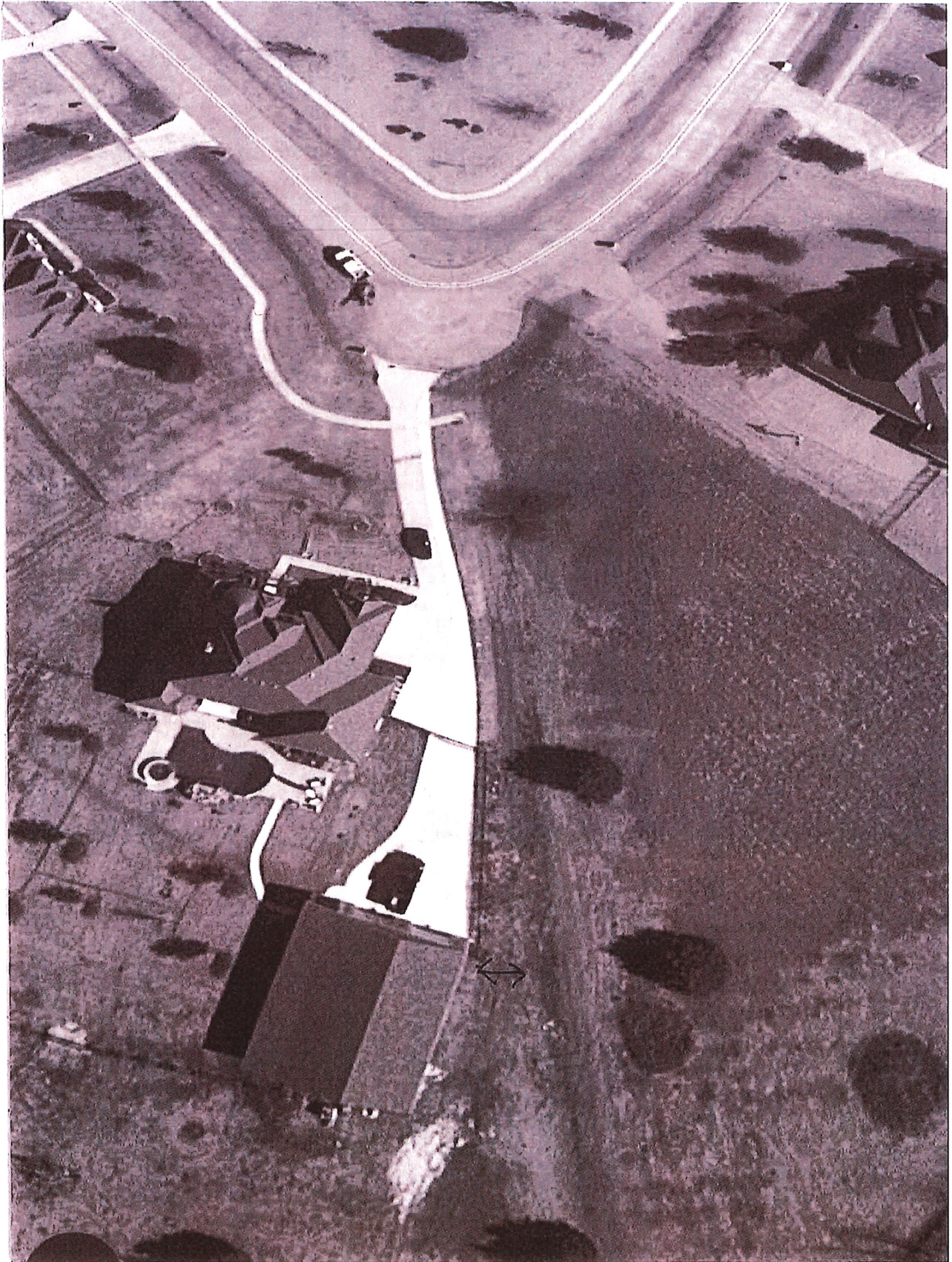
2 Dancing Waters

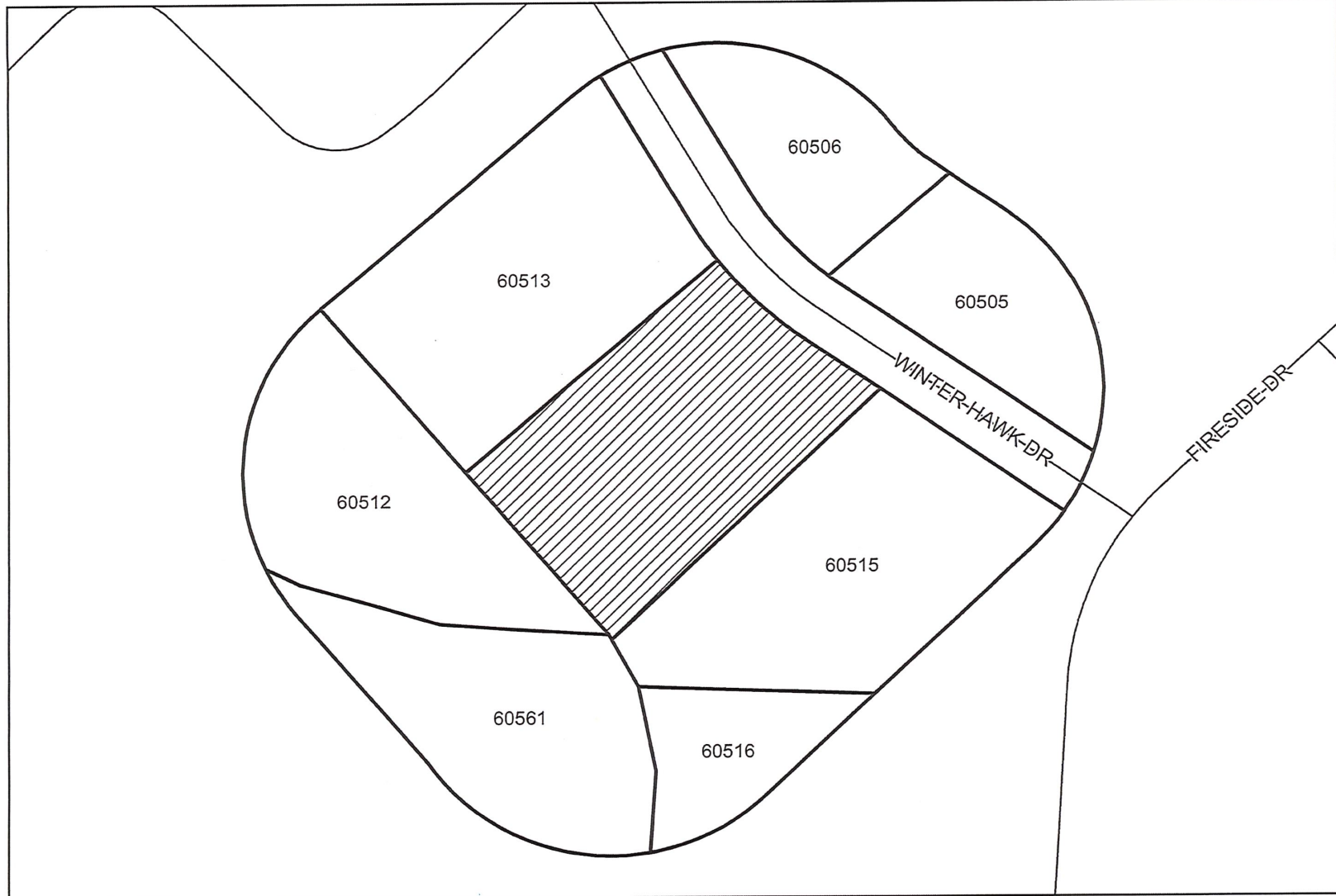




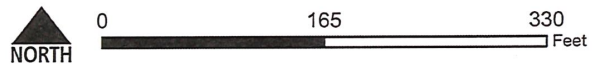
Example:

18 Dancing Waters





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**200 Foot Notifications
BOA 2019-01**

PROP_ID_1	Shape_Leng	Shape_Area	Percent	Name	Address	City, State & ZipCode
0	1258.91325860000	34287.90104910000	0.10361837956			
60505	748.84081408400	30846.51191350000	0.09321846721	HARGROVE JAMES M & TENA M	6 FIRESIDE DRIVE	MCLENDON-CHISHOLM, TX 75032
60506	700.53970939200	27657.06134810000	0.08357991573	WINTER HAWK PROPERTY LLC	1427 BEN DRIVE	IRVING, TX 75061
60512	978.29759465600	49010.27526010000	0.14810954153	OTIENO JULIET A AND BORIS MASON	7 WINTER HAWK DRIVE	ROCKWALL, TX 75032
60513	1030.00870440000	62770.89415350000	0.18969426932	AMUSAN ADEOLA & NUSI GRAY GEORGE RANDALL AND	5 WINTERHAWK DR	ROCKWALL, TX 75032-6826
60515	1034.90811075000	61805.55489220000	0.18677700443	JENNIFER LEIGH BARKER	1 WINTERHAWK DRIVE	MCLENDON-CHISHOLM, TX 75032
60516	621.18472659300	18406.25293250000	0.05562388027	DUIGNAN KEVIN AND KAREN CHISHOLM CROSSING HOMEOWNERS ASSOCIATION INC	10 FIRESIDE DRIVE	ROCKWALL, TX 75032
60561	987.06247980100	46121.13868930000	0.13937854195	C/O PMG NTX 837 24537	PO BOX 650255	DALLAS, TX 75265

CITY OF McLENDON-CHISHOLM, TEXAS
NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT

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, July 22, 2019 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 William Nelson, requesting a variance to the side building setback from 25' to 15' for the purpose of building a garage. The property location is described as 1.606 acres, Chisholm Crossing Phase One, Block A, Lot 11, also described as 3 Winter Hawk Drive, McLendon-Chisholm, Texas. Citizens are invited to attend and participate in the public hearings. /s/ Lisa Palomba, City Secretary.

PROPERTY DESCRIPTION: Chisholm Crossing Phase One, Block A, Lot 11
3 Winter Hawk Drive, 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): Wesley Amustan

Address: 5 Winterhawk Drive Rockwall TX

Telephone or E-mail (optional) hagganusi@aol.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 lisa@McLendon-Chisholm.com

«Legal»

CITY OF McLENDON-CHISHOLM, TEXAS
NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT

CITY OF McLENDON-CHISHOLM – BOARD OF ADJUSTMENT- PUBLIC HEARING

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PROPERTY DESCRIPTION: Chisholm Crossing Phase One, Block A, Lot 11 3 Winter Hawk Drive, McLendon-Chisholm, TX 75032
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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) _____

PLEASE REFERENCE MY PREVIOUS LETTER TO THE BOARD
OF ADJUSTMENT FOR MY SUPPORTING REASONS. AS NOTED
IN MY LETTER PREVIOUSLY, I HAVE NO ISSUES WITH YOU
GRANTING THIS VARIANCE AS SOON AS POSSIBLE. I
STRONGLY SUPPORT WILLIE'S REQUEST FOR VARIANCE.

Signature: James M. Harbrow
Name (printed): JAMES M. HARBROW
Address: 6 FRESIDE DR, McLENDON-CHISHOLM, TX 75032
Telephone or E-mail (optional) 404-368-0365
PMZENBS@ATT.NET

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 lisa@McLendon-Chisholm.com*

«Legal»

CITY OF McLENDON-CHISHOLM, TEXAS
NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT

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, July 22, 2019 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 William Nelson, requesting a variance to the side building setback from 25' to 15' for the purpose of building a garage. The property location is described as 1.606 acres, Chisholm Crossing Phase One, Block A, Lot 11, also described as 3 Winter Hawk Drive, McLendon-Chisholm, Texas. Citizens are invited to attend and participate in the public hearings. /s/ Lisa Palomba, City Secretary.

PROPERTY DESCRIPTION: Chisholm Crossing Phase One, Block A, Lot 11 3 Winter Hawk Drive, 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): _____ *G Randall Gray*
Address: _____ *1 Winter Hawk Dr*
Telephone or E-mail (optional) _____ *214-505-2389*

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 lisa@McLendon-Chisholm.com*

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PROPERTY DESCRIPTION: Chisholm Crossing Phase One, Block A, Lot 11
3 Winter Hawk Drive, 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): _____ Paul Walden, President Chisholm Crossing HOA

Address: _____ 101 Chaney Pl Rockwall, Texas 75032

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 lisa@McLendon-Chisholm.com

«Legal»

BOARD OF ADJUSTMENT REPORT – CITY OF MCLENDON-CHISHOLM

AGENDA DATE: July 22, 2019

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 FM550 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
PO 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) (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.”

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 FM550 and SH 205. According to 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 provision 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 80 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 Development 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 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.

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 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 decision 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

Suggested motions:

Approval: I move that the Zoning Board of Adjustment in Appeal BOA 2019-002, on application of Vaquero McLendon Partners, L.P. grant the application for a variance to the Commercial Development Standards Section 4-13 (E) (1) 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 Development Standards of the Zoning Ordinance to allow a single-story building with a floor area greater than 6,000 square feet subject to the following condition:

Compliance with the submitted site plan is required.

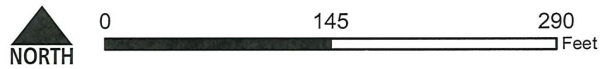
Denial: I move that the Zoning Board of Adjustment in Appeal BOA 2019-002, on application of Vaquero McLendon Partners, L.P., deny the application for a variance to the Commercial Development Standards Section 4-13 (E) (1) Building Form for a building wall greater than 80 feet contained in the City of McLendon Chisholm Zoning Ordinance and a Special Exception to Section 4.13(E)(1) Commercial Development Standards of the Zoning Ordinance to allow a single-story building with a floor area greater than 6,000 square feet subject because our 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 unnecessary hardship to this applicant.

Postpone: I move that the Zoning Board of Adjustment in Appeal BOA 2019-001 hold this matter under advisement until _____.

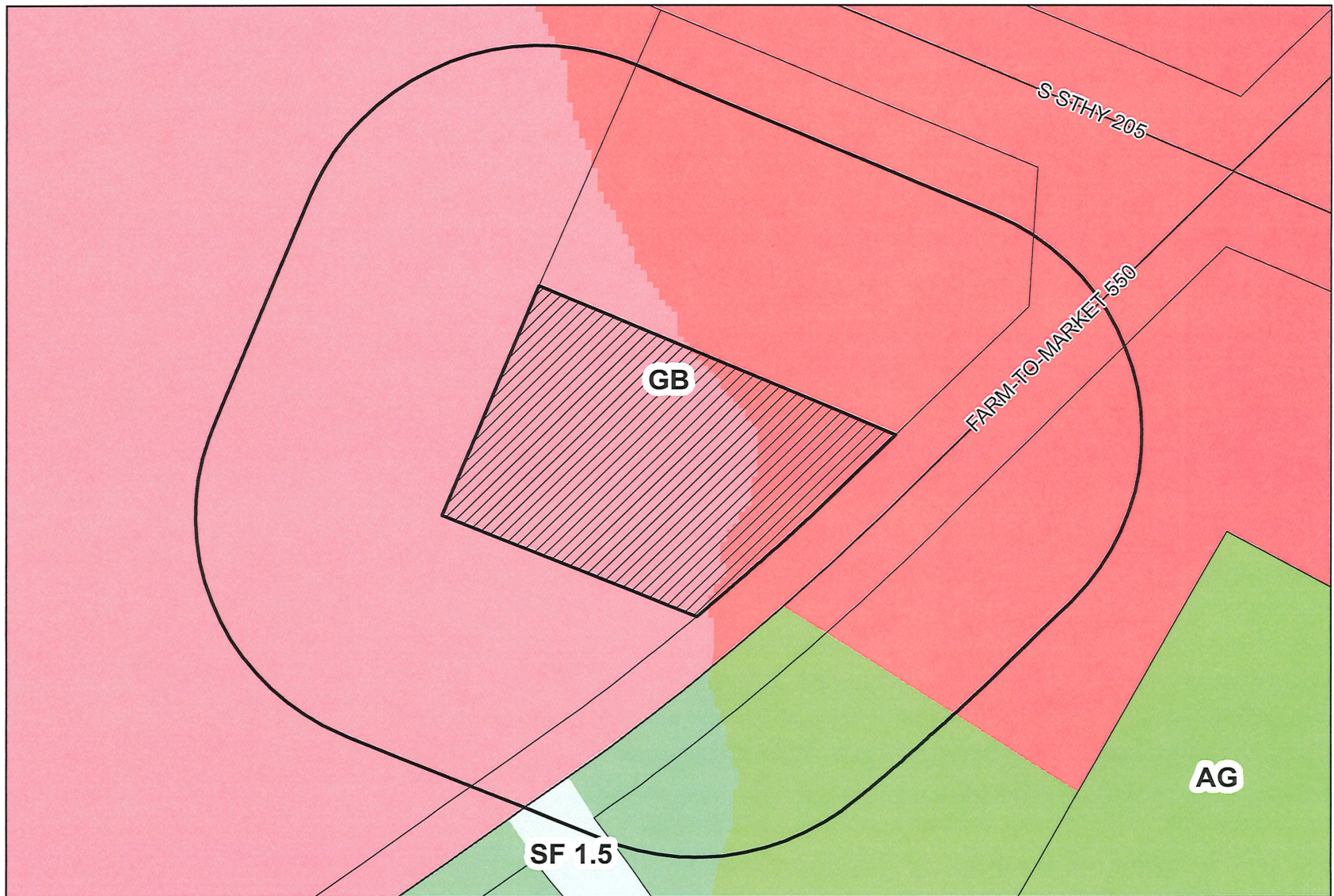


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

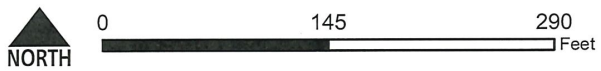
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the ground survey and represents only the approximate relative location of property boundaries. (Texas Government Code § 2051.102)



Aerial
BOA 2019-02



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the ground survey and represents only the approximate relative location of property boundaries. (Texas Government Code § 2051.102)



Zoning Map
BOA 2019-02



APPLICATION TO REQUEST A HEARING
BEFORE THE CITY OF MCLENDON-CHISHOLM
BOARD OF ADJUSTMENT

DATE OF APPLICATION 6/13/2019 CASE # _____

NAME OF APPLICANT Vaquero McLendon Partners, LP on behalf of Mariah Bay Development, Inc.

ADDRESS 2900 Wingate Street, #200 PHONE NO. 512-983-1793

Fort Worth, TX 76107 BUSINESS PHONE NO. _____

DESCRIPTION OF PROPERTY LOT NUMBER _____ BLOCK NUMBER _____

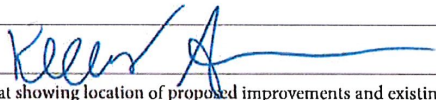
LEGAL DESCRIPTION OF PROPERTY: _____

1.254 acres situated in the Leonard Eastwood Survey, Abstract No. 79, City of McLendon-Chisholm, Rockwall County, Texas

ADDRESS OF PROPERTY: TBD FM 550, McLendon-Chisholm, TX

REASON FOR REQUEST: _____

Prototype building for tenant is larger than the allowable building size.

SIGNATURE OF APPLICANT 

Applicant must provide a survey or plat showing location of proposed improvements and existing structures as related to all boundary lines, pictures and descriptions of project, materials descriptions and list of property owners and address within 200'.

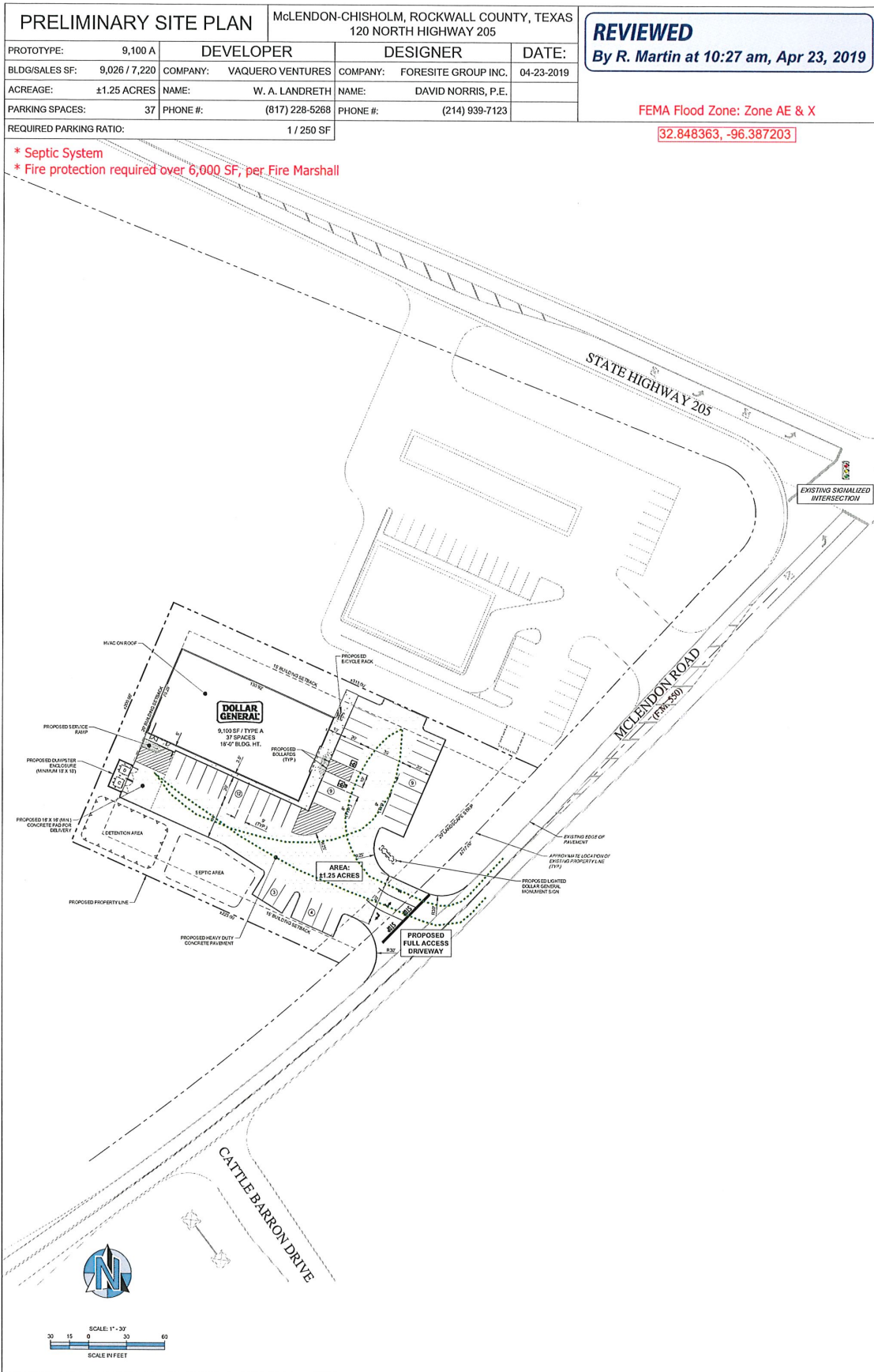
FEE \$400.00 and All Consulting Fees DATE/AMOUNT PAID: _____

RECEIPT #: _____

FOR CITY USE ONLY

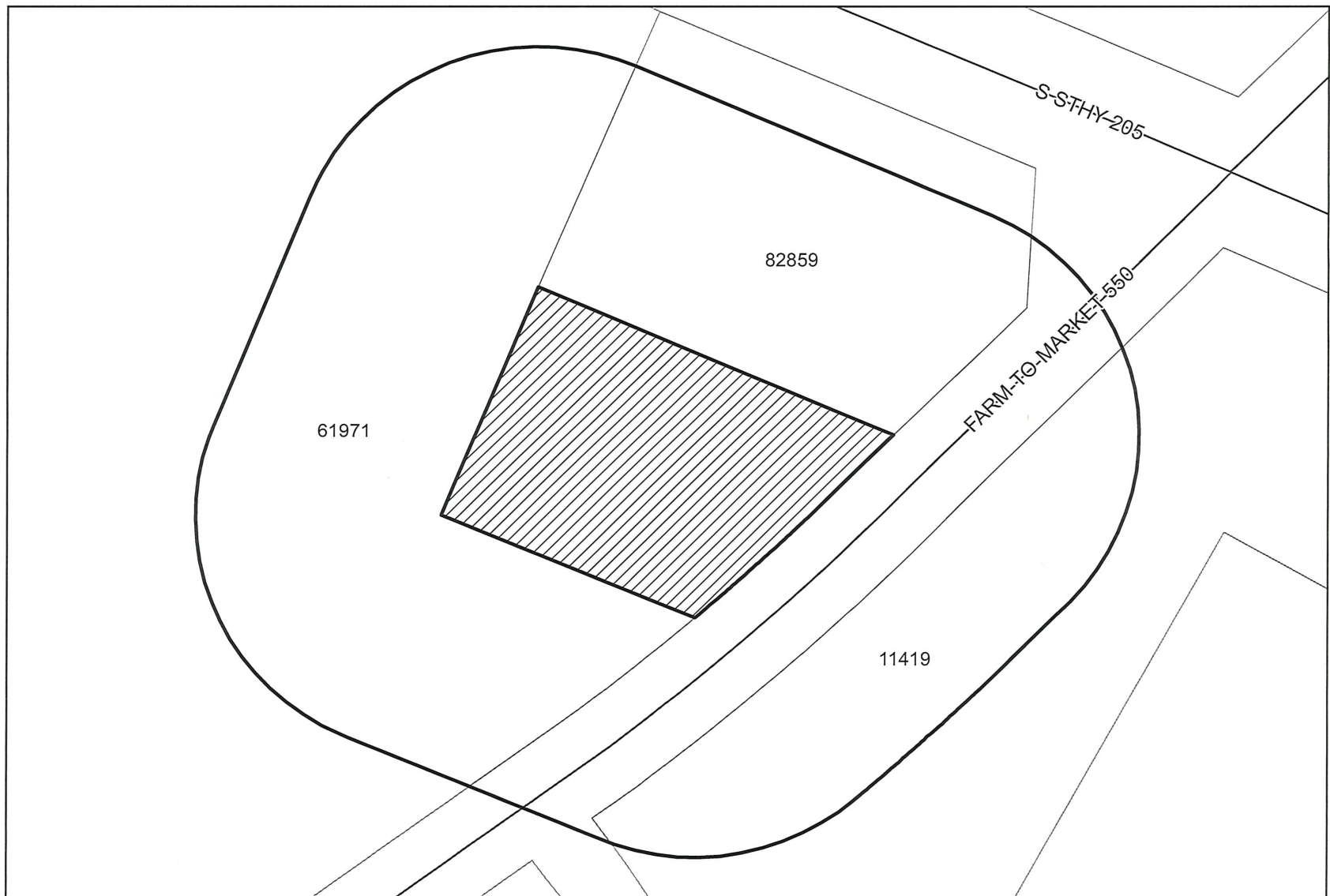
DATE AND TIME OF MEETING SCHEDULED _____

REQUEST FOR VARIANCE GRANTED/DENIED.
IF DENIED, REASON, _____









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200 Foot Notifications
BOA 2019-02

OBJECTID	PROP_ID	Shape_Leng	Shape_Area	Percent	Owner	Address	City, State, ZipCode
1	11419	1289.28115683000	59831.41521270000	0.00000000000	MIL/WAY INVESTORS LLC	PO BOX 717	ROCKWALL, TX 75087-0717
2	61971	2027.51745086000	137885.20865400000	0.00000000000	MARIAH BAY DEVELOPMENT INC	PO BOX 369	ROCKWALL, TX 75087-0369
3	82859	1078.02669641000	69677.47050950000	0.00000000000	GROUP PACIFIC HOLDINGS LLC	6711 STARBUCK DR	DALLAS, TX 75252-5945