



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, DECEMBER 7, 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 - 7 | 4.1. August 31, 2020 Board of Adjustment Meeting Minutes
20.08.31 BOA Minutes |
| | 5. PUBLIC HEARING |
| 8 - 19 | 5.1. A public hearing to consider the application of Richard Bullock requesting a variance to the minimum lot width from 300' to 26' for the purpose of providing a private drive for access to two proposed lots.
Application
Staff Report |
| | 6. ITEMS FOR CONSIDERATION |
| | 6.1. Consideration and action regarding the request of Richard Bullock requesting a variance to the minimum lot width from 300' to 26' for the purpose of providing a private drive for access to two proposed lots. |
| | 7. 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 City Council of McLendon-Chisholm, Texas was posted or before 5:00 p.m., December 3, 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
August 31, 2020

Members Present: Beverly Stibbens, Chairman
Herb Harker, Board Member
Gary Nickel, Board Member
David Cross, Board Member (Alternate)
Melody Osorio, Board Member

Members Absent: Valerie Bodart, Board Member (Alternate)

Staff Present: Shelly Green City Secretary
Mike Coker City Planner

1. CALL TO ORDER

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

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

Chairman Stibbens led the pledges of allegiance to the U.S. and Texas Flags.

3. CITIZEN COMMENTS

No Comments

4. ADMINISTER OATHS OF OFFICE TO NEWLY APPOINTED MEMBERS

City Secretary Green administered the Statement of Officer and Oath of Office to newly appointed members Beverly Stibbens and Melody Osorio.

5. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Board Member Nickel nominated Board Member Stibbens as Chairman. The nomination was approved by a unanimous vote.

Board Member Fite nominated Board Member Nickel as Vice-Chairman. The nomination was approved by a unanimous vote.

August 31, 2020 - Board of Adjustment Minutes

6. APPROVAL OF MINUTES

6.1. June 1, 2020 Board of Adjustments Meeting Minutes

MOTION: Approve the minutes of June 1, 2020 as presented.

MADE BY: Board Member Nickel
SECONDED BY: Board Member Harker
APPROVED: Unanimous

7. PUBLIC HEARING

- 7.1. A public hearing to consider the application of Stuart & Eva Maberry requesting a variance to the side yard minimum of 25' to 18' for the purpose of building a detached garage. The property is located at 21 Fireside Dr.

City Planner Mike Coker presented his report on this application:

APPLICANT: Stuart and Eva Maberry
LOCATION: 21 Fireside Drive, McLendon-Chisholm, Texas
BOARD HEARING DATE: August 31, 2020

REQUEST:

The applicants are requesting a variance to the required side yard setback of 25 feet by reducing the required 25-foot side yard setback to 18 feet in order to place a portion of a new proposed garage in the required setback.

PROPERTY OWNER: Stuart and Eva Maberry
REPRESENTATIVE: Stuart Maberry

STAFF RECOMMENDATION: Approval subject to the following conditions:

The applicant is required to construct the garage as shown on the attached graphic [at end of report]

The applicant is required to construct the garage in the location shown on the attached site plan [at end of report]

The applicant is required to obtain a building permit if the Board of Adjustment approves the requested variance of the side yard setback.

BACKGROUND INFORMATION:

The property located at 21 Fireside Drive is located in the Chisholm Crossing community. The zoning district for this property is SF 1.5 requiring a minimum lot size of 1.5 acres. The SF 1.5 zoning district requires a minimum interior side yard setback of 25 feet from the property line. The area between the adjacent property line and the required setback is supposed to be clear and unobstructed with the exception of a fence that may be located in the setback.

Mr. Mayberry presented his case as follows:

I respectfully request an easement waiver from 25' to 18' on the southwest side of my property at 21 Fireside Drive to build a detached garage. Our house footprint is wide, and the waiver will allow for a 20'x30' detached garage to store my boat, trailer, and other items. The Chisholm Crossing HOA has approved our request. Moreover, the 25' side boundary easement did not exist when we purchased the property.

As a 100% disabled veteran, this garage will allow much easier access to my property without the physical demands required to store offsite. Additionally, the garage will alleviate the need to rent storage space at \$400 per month.

We evaluated alternative building sites such as building a garage on the Northwest side of the home which would be much more expensive and would still require a waiver. A new driveway would be required and the entire irrigation system on the front and side of the yard would need to be reworked. This would be completely out of character for Chisholm Crossing as every detached garage in the neighborhood is located on the existing driveway side.

There is no other suitable location for the garage. Due to the placement of the four air conditioner units next to the current garage on the Southwest side of the lot, plus the standby generator and electrical/telephone utility boxes mounted on the external wall, we cannot attach the new garage to the existing one.

As noted above, our original easement at the time of purchase in 2009 was 10' and we, along with other neighbors, were not aware of the City's change in easement. We feel the waiver would be a fair compromise and in line with other recently built garages in Chisholm Crossing, which boasts over 30 detached garages – including one at 3 Winter Hawk Drive for which the City Council granted an exception in July 2019.

Mr. Thomas Tompkins, 23 Fireside, spoke in opposition to the granting of the variance. His reasons for objection to the variance request are as follows:

1. Our current residence at 23 Fireside Dr. was initially purchased as a temporary residence. My wife and I previously intended to build our permanent home on a vacant plot of land we purchased back in September of 2016, in the Kingsbridge Development, which is the gated Development just up the road from Chisholm Crossing. After coming to truly appreciate the difference that greater spacing between houses makes to the flow and feel of a development as a whole, we decided to sell our plot of land in Kingsbridge and settle in for the long-term

at Chisholm Crossing. We were happier with the spacing between houses and lots in this development and have made plans to expand on our home here in Chisholm Crossing in the near future. Reducing the side lot setback for my neighbor's lot runs contrary to the very reason we chose Chisholm Crossing over the lot we previously owned in Kingsbridge. In addition, the side lot spacing issue will be further exacerbated once we expand our home on our side of the property line.

2. While I understand my neighbor is claiming a hardship, precedent holds that variance requests are not granted for "self-imposed" hardships; rather, they are strictly reserved for hardships imposed by nature, such as bodies of water or other natural obstructions near property lines. As disclosed by my neighborhood on multiple occasions, he would have sufficient space for his building plans, if not for said self-imposed hardships. It is my understanding that my neighbor does not want to relocate some of his outdoor appliances to make the necessary room for his building plans. In addition, his current L-shaped, FOUR car garage configuration takes up extra space as well. Granting a variance for such Self-imposed hardships for one homeowner, creates the necessity to grant such exceptions to all homeowners, which completely defeats the purpose our setback ordinances were established to achieve.
-

There being no other citizens to speak, the public hearing was closed at 7:20.

8. ITEMS FOR DISCUSSION

- 8.1. Consider the approval of the application of Stuart & Eva Maberry requesting a variance to the side yard minimum of 25' to 18' for the purpose of building a detached garage. The property is located at 21 Fireside Dr.

Stuart Maberry. These are not self-imposed hardships. He has a boat, trailer, and flat bed that need to be in the garage. He stated he has spine, neck, leg injury, and brain injuries and this addition would provide him with a better quality of life. He also stated that the cost to move the garage would be too costly.

Chairperson Stibbens pointed out that financial issues are not considered a hardship.

Vice-Chairman Nickel ask Mr. Maberry if any trees would be affected. He stated that two will have to come down.

Chairperson Stibbens asked if there was any possibility of access from 550. Mr. Maberry stated that was no possibility.

Board Member Harker ask Mr. Tompkins about his side yard. Mr. Tompkins stated it is probably 35'.

Chairperson Stibbens stated the setback has always been 25'. The 10' may be in the HOA regulations, but city regulations override the HOA.

MOTION: Deny the application of Stuart & Eva Maberry requesting a variance to the side yard minimum of 25' to 18' for the purpose of building a detached garage without prejudice.

MADE BY: Board Member Nickel
SECONDED BY: Board Member Harker
APPROVED: Unanimous

9. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 7:50 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Beverly Stibbens, Chairman



RECEIVED

11-3-20

GR

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

DATE OF APPLICATION 11/3/2020 CASE # _____

NAME OF APPLICANT Jenifer Capioli

ADDRESS 13 Center Ct PHONE NO. 586-873-7549

Heath, TX 75032 BUSINESS PHONE NO. _____

DESCRIPTION OF PROPERTY LOT NUMBER _____ BLOCK NUMBER _____

LEGAL DESCRIPTION OF PROPERTY: ABS A0079, L EASTERWOOD, TRACT 8-2, 5.487 ACRES

Rockwall CAD property ID#45976/#48910

ADDRESS OF PROPERTY: E FM 550 (5.4 acre lot behind)

REASON FOR REQUEST: The lot currently only has 26' of frontage. We are requesting a variance to Chapter 14 of the McClendon -Chisholm code of Ordinances, Ordinance #2007-10 which states a requirement of 300' of frontage. Our plan is to put in a private drive to provide access for two proposed lots. There is currently a 5.487 acre plot that we would like to divide into two 2.74 acre parcels.

SIGNATURE OF APPLICANT Jenifer Capioli

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: 11032020

RECEIPT #: 332662

1577 - 400.00 APP Fee

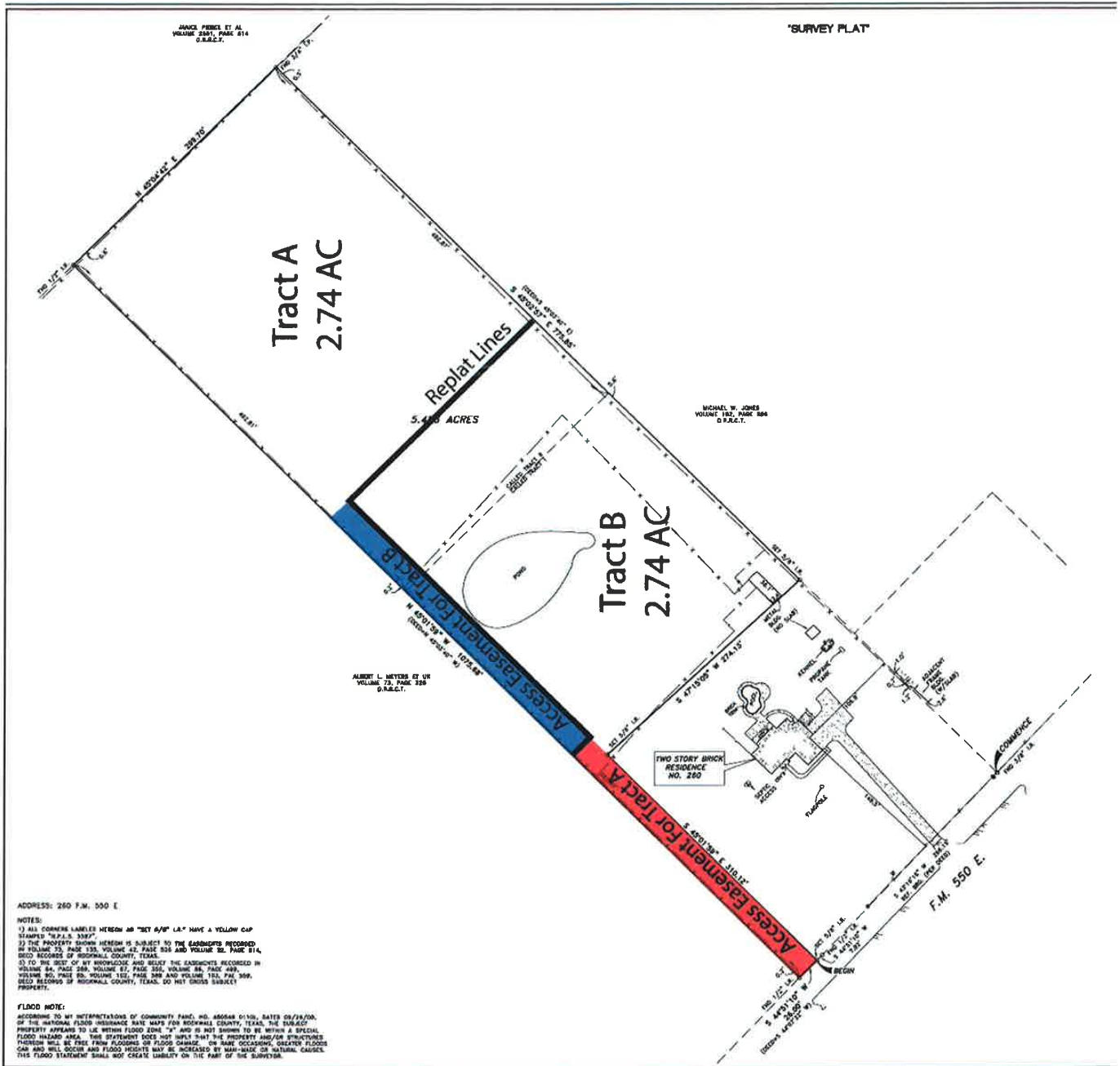
500.00.
CONSULTING
Fee.
Deposit

FOR CITY USE ONLY

DATE AND TIME OF MEETING SCHEDULED _____

REQUEST FOR VARIANCE GRANTED/DENIED.

IF DENIED, REASON: _____





BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: November 30, 2020

APPLICANT: Jenifer Copioli

LOCATION: 13 Center Court, Heath, Texas 75032

BOARD HEARING DATE: December 7, 2020

REQUEST:

The applicant is requesting a variance to the required linear street frontage on a public way of 300 feet per lot. The variance request reduces the required street frontage for proposed lot one from 300 feet to 26 feet. And the variance request for proposed lot two reduces the required street frontage from 300 feet to zero feet but provides access to the public way via an access easement.

PROPERTY OWNER: Richard Bullock

REPRESENTATIVE: Jenifer Copioli

STAFF RECOMMENDATION: Approval of the variance that reduces the required right of way frontage for two single family lots subject to the following conditions:

The subject property must be platted into two lots in [generally] the configuration as shown on the attached exhibit that shows the lot layout proposed by the applicant and a platted access, utility and fire lane easement must be shown on the new subdivision plat that connect to proposed lot 2 from FM 550 right of way. Each proposed lot must contain no less than 2.5 acres of land. Emergency services via a fire lane easement shall be provided that conforms to the International Fire Code as adopted by the City of McLendon-Chisholm including an approved turnaround at the dividing line between proposed lots one and two.

BACKGROUND INFORMATION:

The subject property is a 5.487 acre tract of land with 26 feet of frontage on FM 550, northeast of Paddock Lane. The Rockwall CAD identification number is 45976. The property is a flag lot with the 26 foot wide flagpole providing the only point of access to a public way [FM 550].

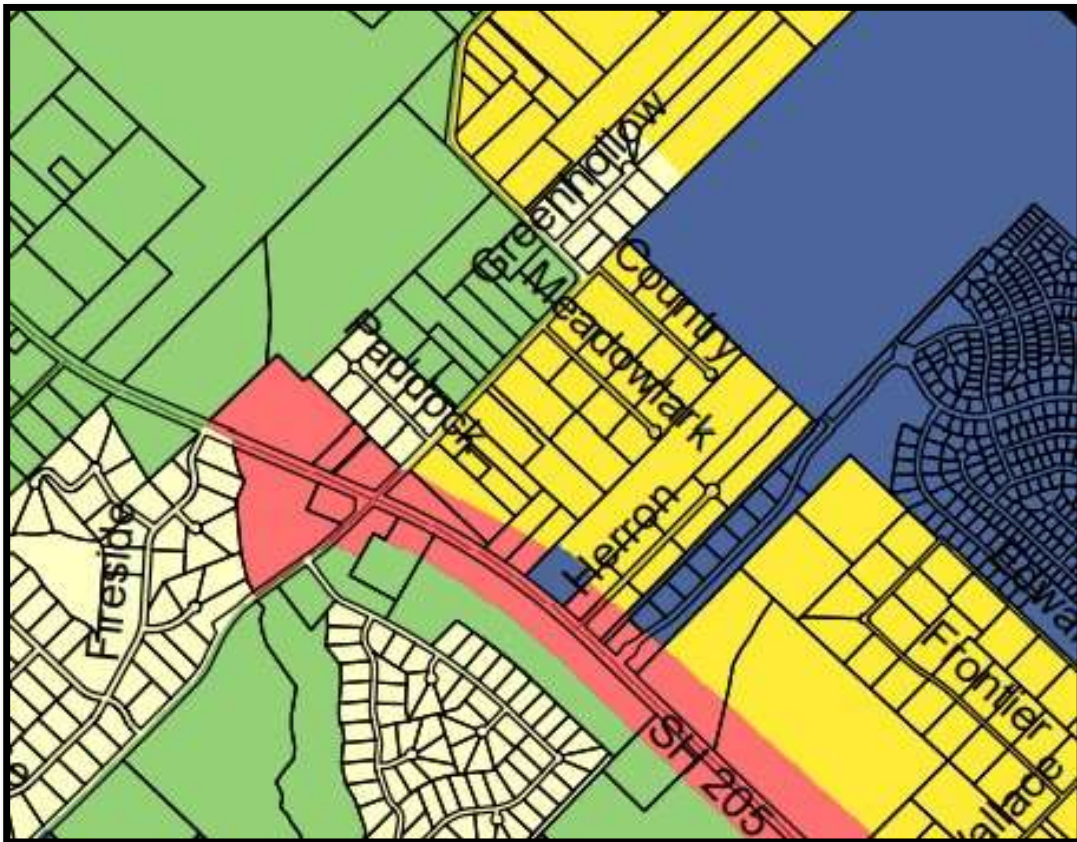
The applicant intends to subdivide the existing property into two lots each containing approximately 2.74 acre of land. There is an existing home located on the frontage of FM 550

adjacent to the subject tract and is identified as Rockwall CAD parcel ID# 95218. Parcel 95218 is not a part of this application.

There is an existing subdivision immediately on the southwest side of the subject property and an unplatted, but developed with a single-family home, tract of land on the northeast side of the flag part of the subject property. The subject property is landlocked except for the 26 foot wide connection to FM 550 right of way.

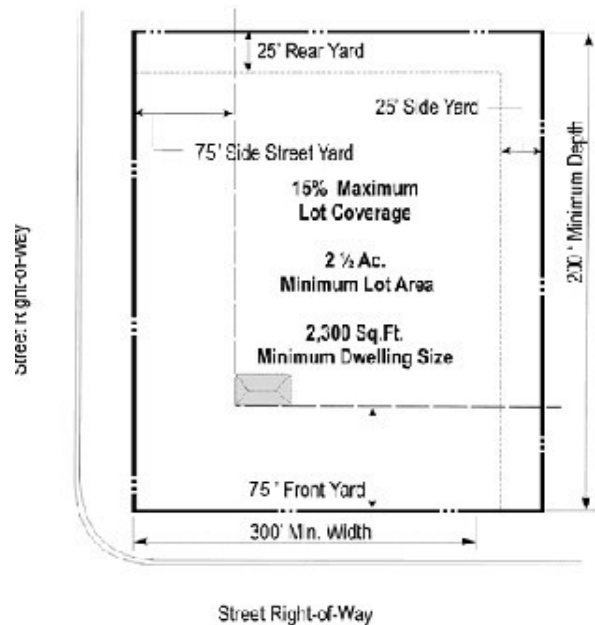
Since the objective is to create two new lots from the existing 5.487 acre tract of land, the two new lots must be effected in accordance with the requirements of Section 10.02.004 of the Subdivision Regulations "(b) Any owner of land located inside of or within the extraterritorial jurisdiction (i.e., within one-half mile) of the city wishing to subdivide such land shall submit to the city a plan of the proposed subdivision which shall conform to the minimum requirements set forth in these regulations. An owner subdividing his land into parcels of not less than five acres each for agricultural use and not involving new streets shall be exempt from these requirements." Since the applicant intends to subdivide the property into two new lots, each having less than five acres, this section is applicable to the future subdivision as proposed by the applicant.

Zoning Map



The zoning district for the subject property is Agriculture. This zoning district requires a minimum lot size of 2.5 acres of land. The zoning district also requires a minimum lot frontage of not less than 300 feet adjacent to a public way.

A - Zoning District Area Requirements	
Minimum Lot Area	2 1/2 Acres
Minimum Lot Width	300 ft.
Minimum Lot Depth	200 ft.
Minimum Street Yard	75 ft. Front Street
	75 ft. Side Street
Minimum Side Yard	25 ft.
Minimum Rear Yard	25 ft.
Minimum Dwelling Size	2,300 sq. ft.
Maximum Lot Coverage	15%
Maximum Building Height	45 ft.



The width of the subject property at the most northwest end of the property is 299.70 feet [per Global Land Surveying, Inc. survey dated May 10, 2010]. The width of the subject property at the connection with FM 550 right of way is 26 feet per the GLS survey.

Thoroughfares/streets:

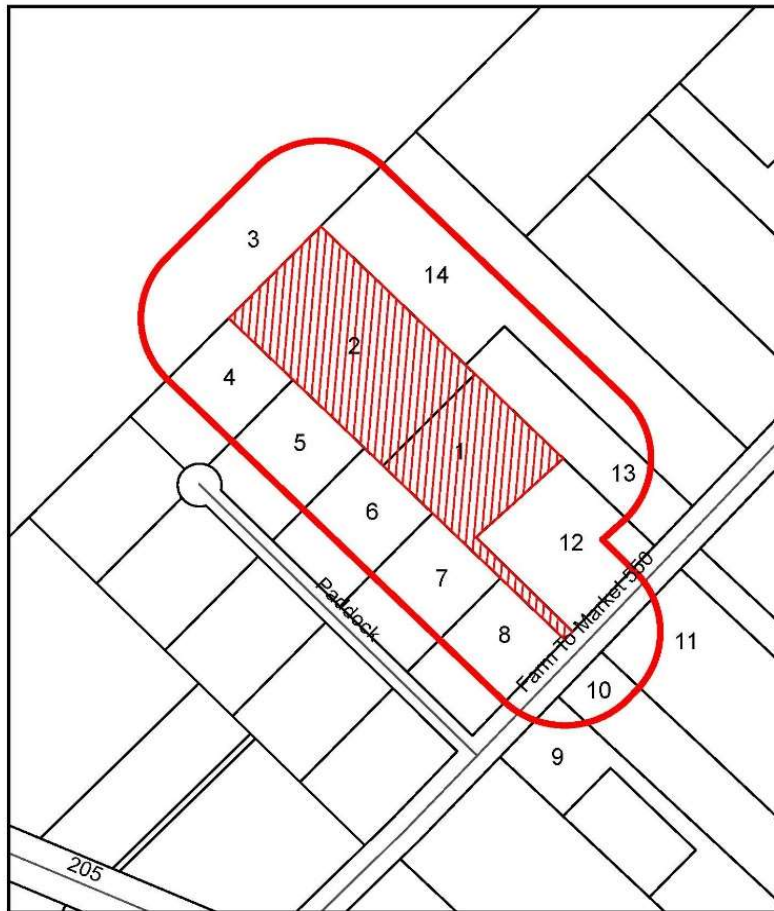
FM 550 is shown on the McLendon-Chisholm Thoroughfare Plan to be a future minor arterial thoroughfare with four lanes and divided median. The right of way requirements for this type of roadway are 100 feet to 120 feet. The current right of way width of FM 550 is shown to be 80 feet. Therefore, should this variance be approved by the Board of Adjustment, the property owner will be required to provide a minimum of 10 feet to the existing right of way at the time of the plat.

Notices:

The City sent notices to property owners within 200 feet of the subject property and have not received any responses in support of the request nor any responses in opposition to the request.



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



**East FM 550
Parcel ID45976 & ID48910**



East FM 55, Parcel ID45976 & ID48910 – 200' Notification List

1. Richard Bullock
9027 Miller Road
Magnolia, Texas 77354
2. Richard Bullock
9027 Miller Road
Magnolia, Texas 77354
3. Roy and Julia Rowan
800 E FM 550
Rockwall, Texas 75032
4. Jeffrey Lee and Teri Lynn Smith
108 Paddock Lane
Rockwall, Texas 75032
5. Stephen Rhett and Kimberly M McClenney
106 Paddock Lane
Rockwall, Texas 75032
6. Aaron Large and Kristen Marie Polhamus
104 Paddock Lane
Rockwall, Texas 75032
7. Alexis Crockett
102 Paddock Lane
Rockwall, Texas 75032
8. Keenan C Goodmas
100 Paddock Lane
Rockwall, Texas 75032
9. Jennifer Knox and Warren Walker
211 E FM 550
Rockwall, Texas 75032
10. Jennifer Knox and Warren Walker
211 E FM 550
Rockwall, Texas 75032
11. Wilder Revocable Trust
Elmer Angelo Wilder Trustee
351 FM 550
Rockwall, Texas 75032

12. Denise and Wade Decker
260 E FM 550
Rockwall, Texas 75032
13. Michael W Jones
808 Eagle Pass
Rockwall, Texas 75032
14. Michael W Jones
808 Eagle Pass
Rockwall, Texas 75032

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.

5.468 ACRES

SURVEY PLAT

TABLE

LINE	BEARING	DISTANCE	AREA
1	N 89° 15' 00" E	100.00	10.00
2	S 89° 15' 00" E	100.00	10.00
3	S 89° 15' 00" E	100.00	10.00
4	N 89° 15' 00" E	100.00	10.00
5	N 89° 15' 00" E	100.00	10.00
6	S 89° 15' 00" E	100.00	10.00
7	S 89° 15' 00" E	100.00	10.00
8	N 89° 15' 00" E	100.00	10.00
9	S 89° 15' 00" E	100.00	10.00
10	N 89° 15' 00" E	100.00	10.00
11	S 89° 15' 00" E	100.00	10.00
12	N 89° 15' 00" E	100.00	10.00
13	S 89° 15' 00" E	100.00	10.00
14	N 89° 15' 00" E	100.00	10.00
15	S 89° 15' 00" E	100.00	10.00
16	N 89° 15' 00" E	100.00	10.00
17	S 89° 15' 00" E	100.00	10.00
18	N 89° 15' 00" E	100.00	10.00
19	S 89° 15' 00" E	100.00	10.00
20	N 89° 15' 00" E	100.00	10.00
21	S 89° 15' 00" E	100.00	10.00
22	N 89° 15' 00" E	100.00	10.00
23	S 89° 15' 00" E	100.00	10.00
24	N 89° 15' 00" E	100.00	10.00
25	S 89° 15' 00" E	100.00	10.00
26	N 89° 15' 00" E	100.00	10.00
27	S 89° 15' 00" E	100.00	10.00
28	N 89° 15' 00" E	100.00	10.00
29	S 89° 15' 00" E	100.00	10.00
30	N 89° 15' 00" E	100.00	10.00
31	S 89° 15' 00" E	100.00	10.00
32	N 89° 15' 00" E	100.00	10.00
33	S 89° 15' 00" E	100.00	10.00
34	N 89° 15' 00" E	100.00	10.00
35	S 89° 15' 00" E	100.00	10.00
36	N 89° 15' 00" E	100.00	10.00
37	S 89° 15' 00" E	100.00	10.00
38	N 89° 15' 00" E	100.00	10.00
39	S 89° 15' 00" E	100.00	10.00
40	N 89° 15' 00" E	100.00	10.00
41	S 89° 15' 00" E	100.00	10.00
42	N 89° 15' 00" E	100.00	10.00
43	S 89° 15' 00" E	100.00	10.00
44	N 89° 15' 00" E	100.00	10.00
45	S 89° 15' 00" E	100.00	10.00
46	N 89° 15' 00" E	100.00	10.00
47	S 89° 15' 00" E	100.00	10.00
48	N 89° 15' 00" E	100.00	10.00
49	S 89° 15' 00" E	100.00	10.00
50	N 89° 15' 00" E	100.00	10.00
51	S 89° 15' 00" E	100.00	10.00
52	N 89° 15' 00" E	100.00	10.00
53	S 89° 15' 00" E	100.00	10.00
54	N 89° 15' 00" E	100.00	10.00
55	S 89° 15' 00" E	100.00	10.00
56	N 89° 15' 00" E	100.00	10.00
57	S 89° 15' 00" E	100.00	10.00
58	N 89° 15' 00" E	100.00	10.00
59	S 89° 15' 00" E	100.00	10.00
60	N 89° 15' 00" E	100.00	10.00
61	S 89° 15' 00" E	100.00	10.00
62	N 89° 15' 00" E	100.00	10.00
63	S 89° 15' 00" E	100.00	10.00
64	N 89° 15' 00" E	100.00	10.00
65	S 89° 15' 00" E	100.00	10.00
66	N 89° 15' 00" E	100.00	10.00
67	S 89° 15' 00" E	100.00	10.00
68	N 89° 15' 00" E	100.00	1

PROPOSED LOT EXHIBIT

