



Memorandum

September 10, 2019

TO: Zoning Board of Adjustment

FROM: Israel B. Roberts, AICP
Planning Manager

SUBJECT: Public hearing on a variance to the required side yard setback

BACKGROUND: This is a request for approval of a variance to the Subdivision Ordinance, Section 10.02.162(b) Lots of the Town of Fairview Code of Ordinances to allow a proposed corner lot that is not wider than the adjacent interior lot. The 2.7-acre site is located at 451 Oakwood Trail, northwest corner of Elk Ridge and Oakwood Trail and is zoned for the (RE-1) One-Acre Ranch Estate District. Owner/applicant: Joe and Jill Luce. (ZBA2019-04)

STATUS OF ISSUE: Section 10.02.062(b) of the Town of Fairview Subdivision Ordinance requires that the lot width for a corner lot in a residential area shall be wider than the lot width of the adjacent lot on the same street. In this case, the property owners desire to create a new 1.0-acre lot at the northwest corner of Elk Ridge and Oakwood Trail. The proposed lot will be created from the larger 2.7-acre lot with the existing home.

The attached exhibit reflects the as-built survey of the existing 2.7-acre lot with the proposed lot line (black line) and a red lot line. The black line represents the proposed location for the new lot line that would, if approved, separate the 1-acre parcel. For graphical purposes only, the red line, represents the location of new lot line, in order to meet the "wider" requirements of the Subdivision Ordinance, as stated above. As shown, the red line violates the zoning ordinance and the 25' side yard setback requirement of the (RE-1) One-acre Ranch Estate District. Therefore, as shown, the red line cannot be used to subdivide the property.

History: The home on the site was constructed in 1995. In 2002, the Luce Family combined Lots 32E, 33, and 34, Block A of the Oakwood Estates Phase 1 and Lot 3, Block A of the Oakwood Estates Phase 2 into a single 3.84-acre residential lot. Later in 2007, former Lot 3, area was sub-divided and separated into an individual lot, leaving the remaining subject 2.7-acre site still under the same ownership as the original combined plat in 2002.

As noted in order to be able to replat this lot into two (2) lots, the variance from Section 10.02.062(b) of the Town of Fairview Subdivision Ordinance is necessary for the plat to move forward to the Planning and Zoning Commission, on Thursday, September 12.

ATTACHMENTS:

Aerial
Exhibits



OWNER'S CERTIFICATE AND ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS, Joe and Jill Luce, are the owners of a tract of land, situated in the Samuel Sloan Survey, Abstract No. 791, in the Town of Fairview, Collin County, Texas, and being all of Lot 33, Block A, of OAKWOOD ESTATES PHASE I, as recorded in Volume 2007, Page 589, of the Official Public Records, Collin County, Texas (O.P.R.C.C.T.), said tract being more particularly described as follows:

BEGINNING at a 5/8" iron rod found for the northeasterly corner of said Lot 33, same being the most southerly corner of Lot 1, Block A, of OAKWOOD ESTATES PHASE II on addition to the Town of Fairview, as recorded in Volume I, Page 675, of the Map Records, Collin County, Texas (M.R.C.C.T.), said corner also being in the northwesterly monumented line of Oakwood Trail (50' right-of-way), said corner also being in a curve to the left, having a radius of 600.00', a central angle of 17°51'46", and a chord which bears, South 20°01'43" West, a chord distance of 186.30';

Thence along said curve to the left, in a southwesterly direction, an arc length of 187.06' to a 5/8" iron rod with a plastic cap (no name) found at the beginning of a curve to the right, having a radius of 500.00', a central angle of 04°57'07", and a chord which bears, South 13°34'11" West, a chord distance of 43.20';

Thence along said curve to the right, in a southwesterly direction, an arc length of 43.22' to a 5/8" iron rod with a plastic cap stamped "NELSON" found at the northeasterly end of a corner clip, at the intersection of said northwesterly monumented line of Oakwood Trail, and the northeasterly monumented line of Elk Ridge (50' right-of-way);

THENCE South 67°39'59" West, along said corner clip, a distance of 18.98' to a point for corner, being the southwesterly end of said corner clip, and being in the northeasterly monumented line of Elk Ridge;

THENCE North 61°34'42" West, along the northeasterly monumented line of Elk Ridge, a distance of 81.28' to a 5/8" iron rod with a plastic cap stamped "NELSON" found at the beginning of a curve to the left, having a radius of 1,315.00', a central angle of 16°11'25", and a chord which bears, North 69°38'48" West, a chord distance of 370.35' to a 1/2" iron rod found for the southwesterly corner of said Lot 33, same being the southeasterly corner of Lot 32W, Block A, of OAKWOOD ESTATES PHASE I, on addition to the Town of Fairview, as recorded in Volume K, Page 902, M.R.C.C.T.;

THENCE North 12°06'55" East, along the common line between said Lot 32W and Lot 33, a distance of 248.67' to a 1/2" iron rod found for the northwesterly corner of said Lot 33, same being the northeasterly corner of said Lot 32W, said corner also being in the southerly line of Lot 4, Block A, of OAKWOOD ESTATES PHASE II (Vol. I, Pg. 675);

THENCE along the common line between said OAKWOOD ESTATES PHASE I and OAKWOOD ESTATES PHASE II the following courses and distances:

- South 76°51'45" East, a distance of 294.14' to a point for corner;
- South 55°08'12" East, a distance of 209.11' to the **POINT OF BEGINNING** and containing 121,480 square feet or 2.789 acres of land, more or less.

Dedication Statement

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS

That Joe Luce and Jill Luce, do hereby adopt this plat designating the herein above-described property as **LOTS 33R AND 34R, BLOCK A, OAKWOOD ESTATES PHASE I**, on addition to the Town of Fairview, Texas, and do hereby dedicate, in fee simple, to the public use forever, the streets, alleys, and public use areas shown hereon and do hereby dedicate the easements shown on the plat for the purposes indicated to the public use forever, said dedications being free and clear of all liens and encumbrances, except as shown herein.

No buildings, fences, trees, shrubs, or other improvements shall be constructed or placed upon, over, or across the easements on said plat. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to a particular utility or utilities, said use by public utilities being subordinate to the public's and Town of Fairview's use thereof. The Town of Fairview and any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system on any of these easements.

And the Town of Fairview or any public utility shall at all times have the right of ingress and egress to and from and upon any of said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective system without the necessity at any time of procuring the permission of anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Fairview.

WITNESS MY HAND THIS _____ DAY OF _____, 2019.

JOE LUCE _____ JILL LUCE _____

NOTARY CERTIFICATE:

STATE OF TEXAS
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, a Notary Public in and for the said County and State, this day personally appeared Joe Luce, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated and as the act and deed therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2019.

Notary Signature _____ Notary Stamp: _____

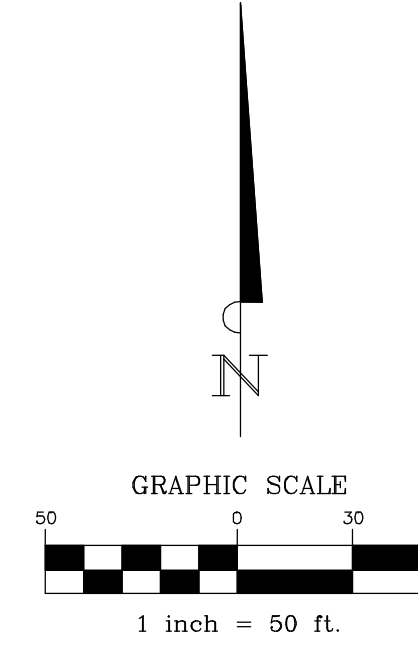
NOTARY CERTIFICATE:

STATE OF TEXAS
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, a Notary Public in and for the said County and State, this day personally appeared Jill Luce, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and considerations therein expressed and in the capacity therein stated and as the act and deed therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2019.

Notary Signature _____ Notary Stamp: _____



ABBREVIATIONS

- I.R.F. = Iron Rod Found
- (C.M.) = Controlling Monument
- C.I.R.F. = Capped Iron Rod Found
- C.I.R.S. = 1/2" iron rod with yellow plastic cap stamped "RPLS 5686" set
- M.R.C.C.T. = Map Records, Collin County, Texas
- D.R.C.C.T. = Deed Records, Collin County, Texas
- O.P.R.C.C.T. = Official Public Records, Collin County, Texas

APPROVAL CERTIFICATE

APPROVED _____ day of _____, 2019

Planning and Zoning Commission

By: _____
Chairperson, Planning and Zoning Commission
Town of Fairview, Texas

APPROVED _____ day of _____, 2019

Town Council, Town of Fairview, Texas

By: _____
Mayor, Town of Fairview, Texas

The undersigned, the Town Secretary of the Town of Fairview, Texas, hereby certifies that the foregoing minor plat of **LOTS 33R AND 34R, BLOCK A, OAKWOOD ESTATES I** was submitted to the Town Council on the _____ day of _____, 2019, and the Council, by formal action, then and there approved the plat and authorized the Mayor to note such approval by signing his/her name as hereinabove subscribed to which I hereby attest.

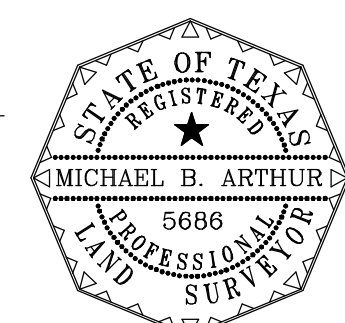
Witness my hand this _____ day of _____, 2019.

Town Secretary
Town of Fairview, Texas

SURVEYOR'S CERTIFICATE:

I, Michael B. Arthur, a Registered Professional Land Surveyor, hereby certify that I have prepared this plat from an actual on-the-ground survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision in accordance with the platting rules and regulations of the Town of Fairview, Texas.

Michael B. Arthur
Registered Professional Land Surveyor
Texas Registration No. 5686



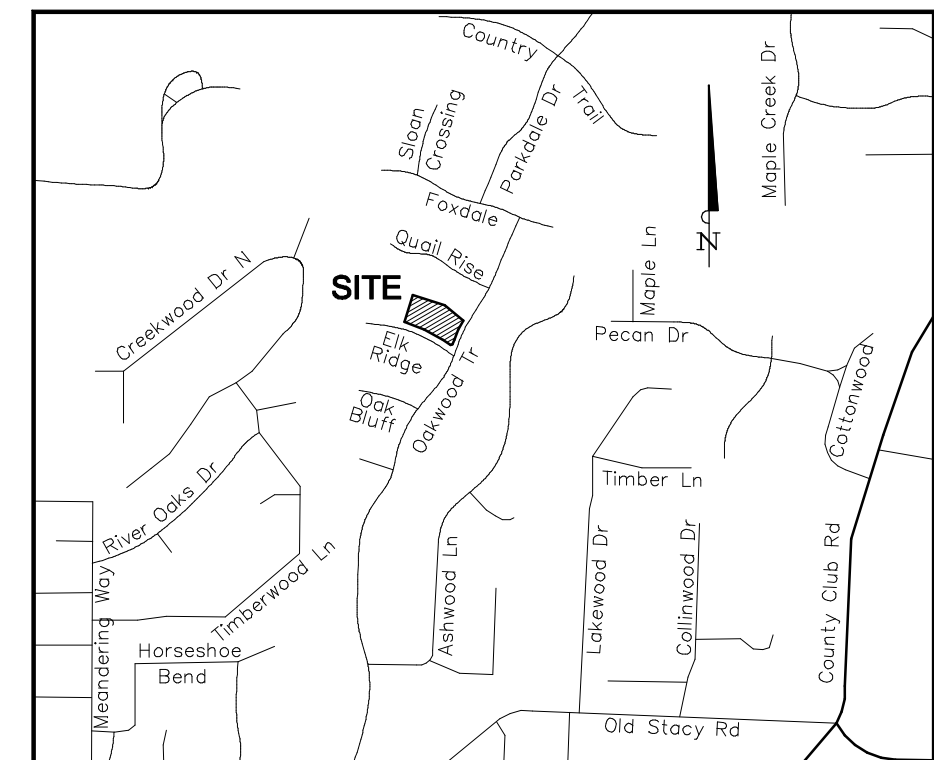
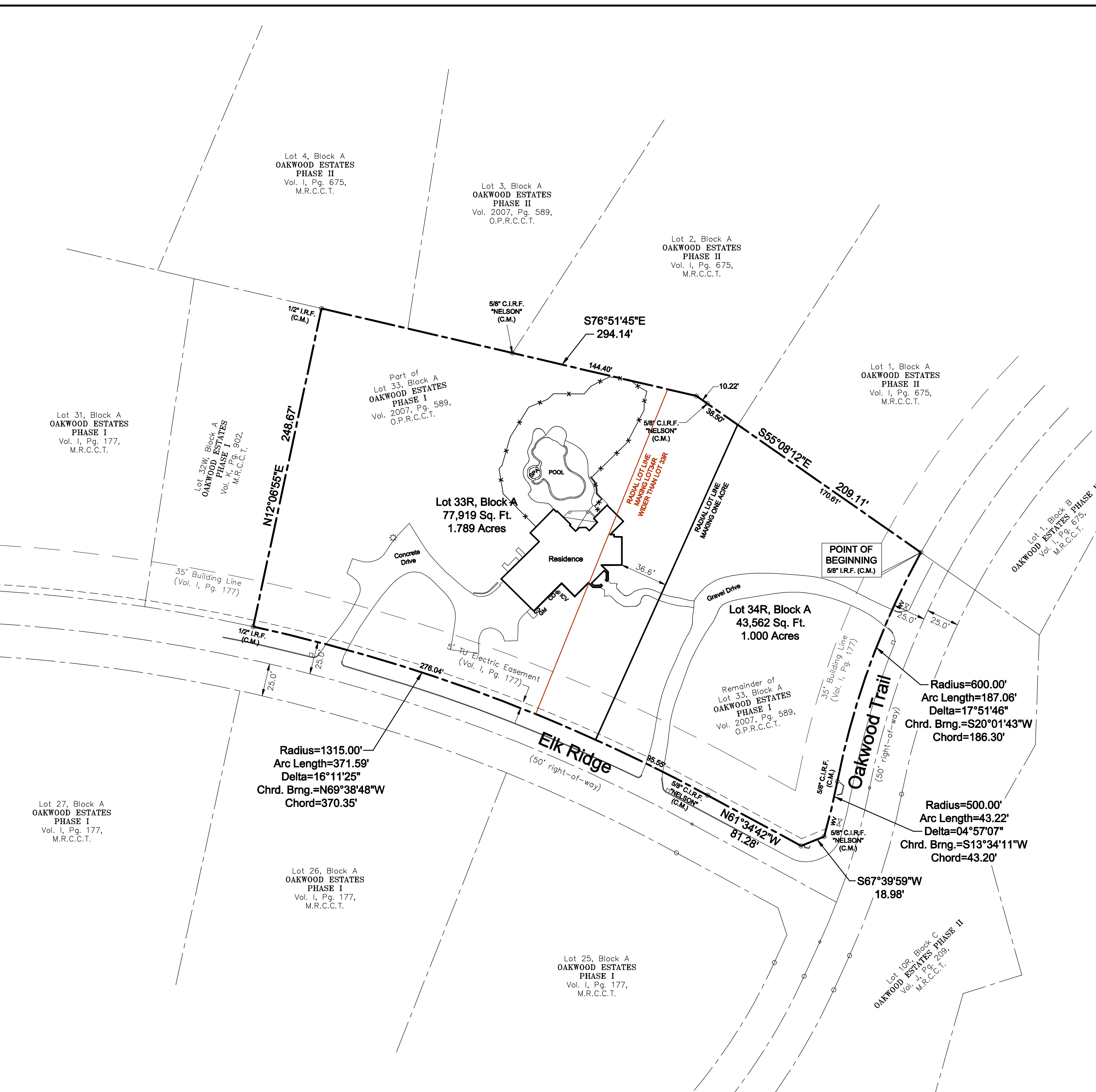
NOTARY CERTIFICATE:

STATE OF TEXAS
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, a Notary Public in and for the said County and State, this day personally appeared Michael B. Arthur, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated and as the act and deed therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2019.

Notary Signature _____ Notary Stamp: _____



General Notes:

- According to the Flood Insurance Rate Map of Collin County, Texas, Map No. 48085C0290J, Map Revised June 02, 2009, the herein described property is located in Zone "X", described by said map to be, "areas determined to be outside the 0.2% annual chance floodplain".
- The surveyor has relied on the herein described subject deed with regard to any easements, restrictions, or rights-of-way affecting the above described Property. No additional research regarding said easements, restrictions or rights-of-way has been performed by the surveyor.
- Bearings and Coordinates are based on the Texas State Plane Coordinate System, North Central Zone (4202), NAD 83. Grid to surface scale factor is 1.000155177, at base point 0,0.
- The purpose of the this plat is to split Lot 33 into two lots.

DATE: 07/29/2019	SCALE: 1" = 50'	DRAWN BY: C.S.H.	CHK'D BY: M.B.A.	JOB NO.: 2019-0072
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REPLAT
LOTS 33R and 34R, BLOCK A
OAKWOOD ESTATES PHASE I
BEING A REPLAT OF LOT 33, BLOCK A
OAKWOOD ESTATES PHASE I
VOL. 2007, PG. 589, O.P.R.C.C.T.
BEING A 121,480 SQUARE FEET
OR 2.789 ACRE TRACT OF LAND
in the
Samuel Sloan Survey ~ Abstract No. 791
Town of Fairview, Collin County, Texas
Prepared: July 29, 2019 Scale: 1" = 50'

Owner:
Joe and Jill Luce
451 Oakwood Trail
Fairview, Texas 75069
Phone: (972) 880-6322

Surveyor:
North Texas Surveying, L.L.C.
Registered Professional Land Surveyors
1010 West University Drive
McKinney, TX 75069
Ph: (469) 424-2074 Fax: (469) 424-1997
www.northtexasurveying.com
Firm Registration No. 10074200



August 27, 2019

To Whom It May Concern:

Notice is hereby given that the Zoning Board of Adjustment of the Town of Fairview, Texas, will convene for a public hearing on Tuesday, September 10, 2019 at 6:30 p.m., at Fairview Town Hall, 372 Town Place, Fairview, Texas. At such time and place, the Board will hold a public hearing and take action regarding the following:

- Hold a public hearing, consider and discuss a request for approval of a variance to the Subdivision Ordinance, Section 10.02.162(b) *Lots* of the Town of Fairview Code of Ordinances to allow a proposed corner lot that is not wider than the adjacent interior lot. The 2.7-acre site is located at 451 Oakwood Trail, northwest corner of Elk Ridge and Oakwood Trail and is zoned for the (RE-1) One-Acre Ranch Estate District. Owner/applicant: Joe and Jill Luce. (ZBA2019-04)

All interested citizens and property owners are invited to attend and participate in this meeting. For questions and/or comments please contact Israel Roberts, Planning Manager, at 972-562-0522, extension 5094; or via email: iroberts@fairviewtexas.org. Citizens may also visit Town Hall, Monday-Friday from 8:30-4:30 PM to obtain more information on this matter prior to the public hearing.

If you wish to communicate your support or opposition for this variance request to the Zoning Board of Adjustment, please respond to the queries below and return it to Mr. Roberts via mail, email, or hand delivery.

Name: Nancy Chambers

Address: 430 Oakwood Trl

Support

Signature: Nancy Chambers

Oppose (provide comments below)

Date: 1 8 30 2019

Comments:

SEE ATTACHES

We oppose the variance to Subdivision Ordinance, Section 10.02.162(b) requested for 451 Oakwood Trail because requested variance:

1. Seeks to override zoning code which was established to protect the health, safety and general welfare of the people as relates to land use as well as preserve the look and feel of Fairview. Overriding these rules at this juncture is unfair to neighbors who bought property subject to these rules in good faith with the understanding that these rules would be upheld and enforced.
2. Violates restrictions stated in the Amended and Restated Restrictive Covenants, Oak Wood Estates, section 4(a) regarding the subdivision of a lot.

Our opposition is also predicated on the following:

1. There would be approximately 11,280 buildable square feet after adjusting for setbacks required by the town and Oakwood Estates covenants. This will require the destruction of several old growth trees which cannot be replaced with quality trees of equal diameter. Such destruction will fundamentally alter the appearance of the neighborhood for the worse and is contrary to principles on which Fairview was founded.
2. Similarly, there is a question of whether there is adequate space for septage.

Granting this variance has the effect of putting the personal financial interests of a soon to be non-citizen ahead of the interests of the many citizens who live adjacent the property (9) in question as well as those that pass by the property (all of Oakwood Estates Phase II and III).