

## AGENDA ITEM 16-05

**SUBJECT:** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Barry Barnes for variances to the front and rear yard setback, and to both side yard setbacks for the Property Located at 409 Lively Street.

**MEETING DATE:** April 27, 2016

**DEPARTMENT:** Development Services-Building Inspections

**CONTACT:** Rick Herzberger, Chief Building Official

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**ZONING:** RS18

**EXISTING CONDITIONS:** Undersized lot

**VARIANCES REQUESTED:**

ORDINANCE REQUIREMENTS	REQUESTED DIMENSIONS	VARIANCE FROM ORDINANCE
25' Front Yard Setback	20'	5'
25' Rear Yard Setback	20'	5'
5' Side Yard Setback	4'	1'
5' Side Yard Setback	4'	1'

**APPLICANT'S BASIS FOR VARIANCE:**

Applicant wishes to build a single family residence. The lot size is 4489 square feet, instead of the required 5000 square feet. It is short on the depth and width. Therefore variances are needed on all four sides.

**PUBLIC SUPPORT/OPPOSITION FOR REQUEST:**

To date, no letters of support and no letters of opposition have been submitted.

**BOARD AUTHORITY:**

The Board has authority to authorize a variance from the terms of the Zoning Ordinance as will not be contrary to the public interest if the literal enforcement of the Zoning Ordinance would result in unnecessary hardship due to special conditions unique to the property so that the spirit of the Zoning Ordinance is observed and substantial justice done. The Zoning Ordinance provides additional requirement for "yard variances" and "building or structure variances" that must also be met by an applicant seeking a variance in addition to the requirements set out hereinabove.

In addition to the general requirements set forth above the following requirements must also be met for a variance of the type identified below:

**Yard Requirements** The Board has the authority to 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 these provisions due to an irregular shape of the lot, topographical or other conditions.

**SUPPORTING MATERIALS:**

Variance Application  
Property Locator Map

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**Action:          APPROVED                  DENIED                  TABLED**



16-05

**CITY OF MCKINNEY  
BOARD OF ADJUSTMENT APPLICATION**

**Type of Request:**

Variance  Special Exception  Appeal

FILING FEE \$50.00

RECEIPT DATE 4-4-16  
RG18-117

**Property Location:**  
 409 LIVELY ST. MCKINNEY TX 75069  
 Address City State Zip  
 423 OUTLOT ED BRADLEY SURVEY.  
 Lot Number Block Subdivision Name

**Owner's Information:**  
 RON LUSTIG 214-914-4251  
 Owner's Name Phone Number  
 733 CREEK VALLEY CT. ALLEN TX 75002  
 Address City State Zip  
 Owner is giving BARRY BARNES authority to represent him/her at the meeting.  
 Applicant's Name  
 RON LUSTIG. Owner's Signature

**Applicant's Information:**  
 BARRY BARNES THE BUNGALOW CO. 469-358-6109  
 Name Company Name Phone Number  
 733 CREEK VALLEY CT. ALLEN TX 75002  
 Address City State Zip

Seeking an appeal from Chapter 41, McKinney Zoning Ordinance, Section No. \_\_\_\_\_

Please list the type of variance(s) requested:

	Ordinance Requirements	Requested Dimensions	Variance From Ordinance
Lot Size	5000 SQ FT	44891	<del>511'</del>
Lot Width	50'	48.53R 51.14R	<del>20' 1.5'</del>
Lot Depth	100'	90.53L 89.64R	<del>210'</del>
Side Yard	5'	4'	1'
Side Yard	5'	4'	1'
Side @ Corner			
Front Yard	25'	20'	5'
Rear Yard	25'	20'	5'
Driveway			
Other			

\*Not applicable in ETJ



In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that all of the following conditions are met. State how your request meets these conditions. Please note that the stated hardship shall not be financial or self-created.

1. The request variance is in harmony with the general purposed and intent of the ordinance, as amended, and continues to protect surrounding properties from any negative impacts because:

UNDERSIZED LOT.

2. The special or unique condition(s) of restricted area, shape, topography or physical features that exist on the subject parcel of land, which are not applicable to other parcels of land in the same zoning district, and which cause unusual and practical difficulty or unnecessary hardship in compliance with the provisions sought here to be varied are:

UNDERSIZED LOT.

3. The hardship sought to be avoided is NOT the result of (a) the applicant's own actions (self-imposed or self-created) and (b) economic or financial hardship because:

UNDERSIZED LOT.

4. The provisions of the ordinance, and its amendments, that are sought to be varied deprive the applicant of the following rights to use his property that are commonly enjoyed by other properties in the same zoning district which comply with these ordinance provisions:

UNDERSIZED LOT.

Items Submitted: Completed application and fee  Plot/Site Plan or Survey drawn to scale

I hereby certify that the above statements are true and correct to the best of my knowledge.

[Signature]
Applicant's Signature

STATE OF TEXAS

COUNTY OF COLLIN

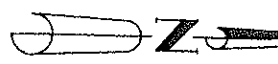
Subscribed and sworn to before me this 4th day of April, 2016



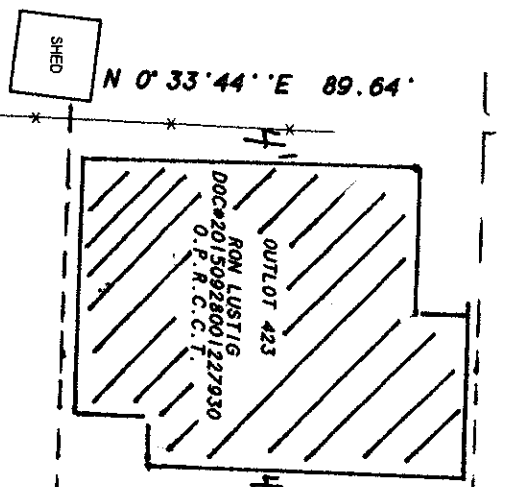
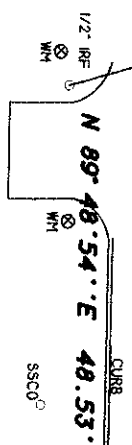
(seal)

[Signature]
Notary Public

My Commission expires: January 26, 2019



POINT OF BEGINNING  
LIVELY STREET  
EXISTING 30' R.O.W.



OUTLOT 423  
SHIRLEY J. MACK  
VOL. 5373, PG. 0582  
L.R.C.C.T.

LOT 1R  
BLOCK 1  
DOVETAIL ADDITION  
VOL. P. PG. 439  
P.R.C.C.T.

LOT 1R  
BLOCK 1  
DOVETAIL ADDITION  
VOL. P. PG. 439  
P.R.C.C.T.

SURVEY ACCEPTED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
DATE \_\_\_\_\_

DESCRIPTION

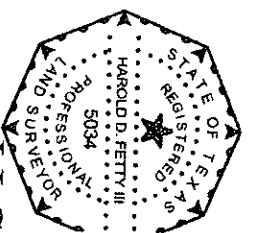
All that certain lot, tract or parcel of land situated in the ED BRADLE of McKinney, Collin County, Texas, and being known as Outlot 423, described in a Warranty deed from British Builder Investment Group, dated 25, 2015 and being recorded in Document number 20150828001127, Collin County, Texas, and being more particularly described as follows: BEGINNING at a 1/2" iron rod found for corner in the south line of Lot 1R, Block 1, DOVETAIL ADDITION, an Addition to the City of McKinney, Texas, as recorded in Document number 20150828001127, Collin County, Texas; THENCE N. 89 deg. 48 min. 54 sec. E. along said right-of-way line, rod found for corner; THENCE N. 89 deg. 33 min. 44 sec. E. a distance of 89.64 feet to a point containing 4,489 square feet or 0.10 acres of land

NOTES

- 1) According to F.E.M.A. Flood Insurance Rate Map, Community Plan No. 17000, dated June 2, 2009, this property lies in Zone X. This property does not contain any flood plain.
- 2) BEARING SOURCE: RECORDED PLAT.
- 3) ALL 1/2" IRS ARE CAPPED WITH YELLOW PLASTIC CAPS.

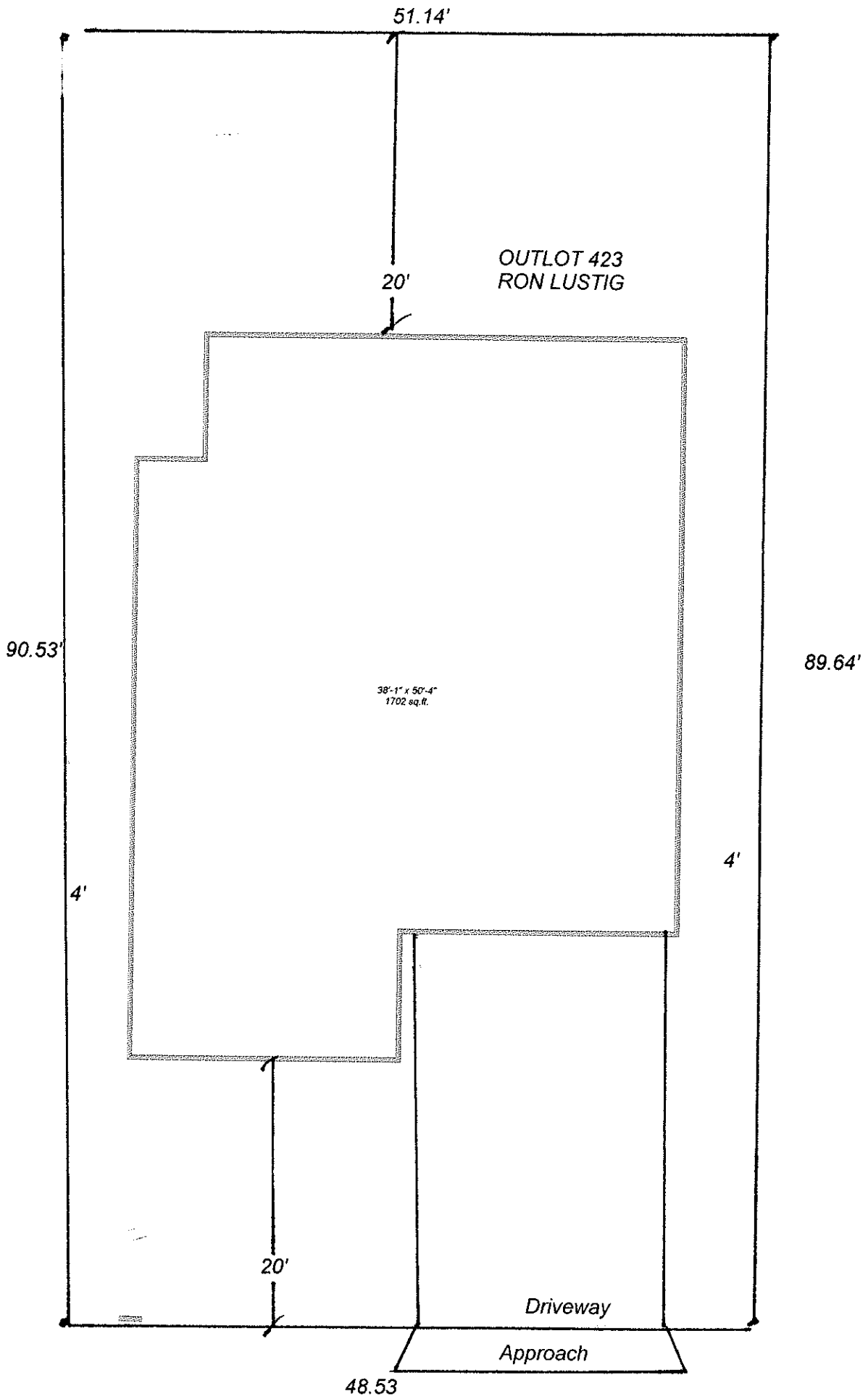
SURVEYOR'S CERTIFICATE  
I, Harold D. Fetty, III, Registered Professional Land Surveyor No. 5034 in the State of Texas, do hereby certify that the foregoing plat of the property surveyed for RON LUSTIG at 409 LIVELY STREET, Dallas, Texas, is the result of a careful collection of the best evidence available on the facts as found at the time of survey. This survey meets the requirements of the Texas Board of Professional Land Surveyors as approved and published by the Texas Board of Professional Land Surveyors on September 1, 1982 and subsequent revisions, and the same was surveyed and returned to me on the 15th day of March, 2016.

Harold D. Fetty III, R.P.L.S. No. 5034



H.D. Fetty Land Surveyor, LLC  
Firm Registration no. 101509-00  
6770 FM 1565 ROYSE CITY, TX 75189 972-635

Does not need for this lot # 2

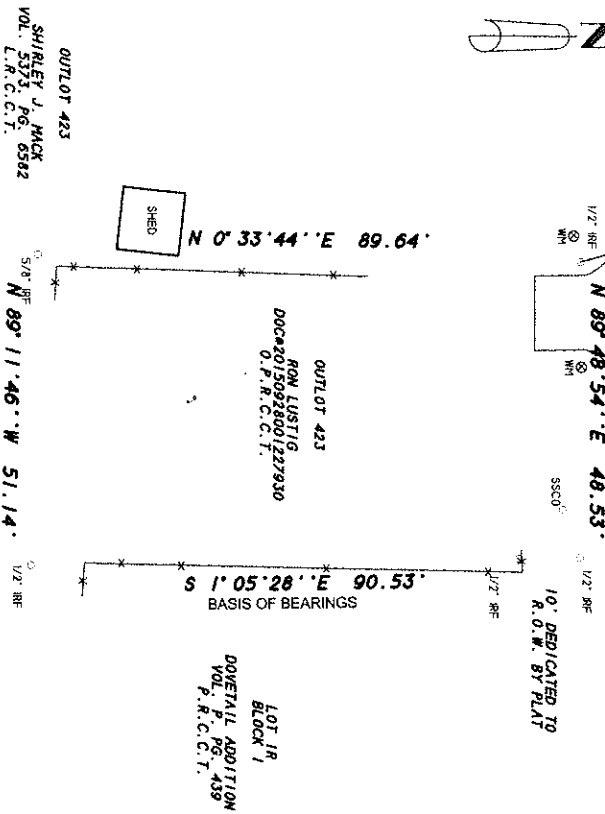
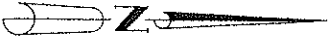


409 LIVELY STREET

PLAT OF SURVEY

POINT OF BEGINNING  
LIVELY STREET  
EXISTING 30' R.O.W.

1409



LOT 1R  
BLOCK 1  
DOYETAIL ADDITION  
VOL. P. R.C.C.T. 439

SURVEY ACCEPTED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
 \_\_\_\_\_ DATE \_\_\_\_\_

DESCRIPTION

All that certain lot, tract or parcel of land situated in the ED BRADLEY SURVEY, ABSTRACT NO. 85, City of McKinney, Collin County, Texas, and being known as Outlot 423, and being the same tract of land as described in a Warranty deed from British Builder Investment Group, L.L.C. to Ronald Lusting, dated September 23, 2015 and being recorded in Document number 20150928001227930 of the Official Public Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the south line of Lively Street, a variable width right-of-way, at the northwest corner of said Lusting tract and at the northeast corner of a tract of land known as Outlot 425, as described in a deed to Shirley J. Mack, as recorded in Volume 5373, Page 5582 of the Land Records of Collin County, Texas;

THENCE N. 89 deg. 48 min. 54 sec. E. along said right-of-way line, a distance of 48.53 feet to a 1/2" iron rod found for corner;

THENCE S. 01 deg. 05 min. 28 sec. E., at 10.00 feet pass a 1/2" iron rod found at the northwest corner of Lot 1R, Block 1, DOYETAIL ADDITION, an Addition to the City of McKinney, Texas, according to the Plat Interol recorded in Volume P. Page 439 of the Map Records of Collin County, Texas, and continuing for a total distance of 90.53 feet to a 1/2" iron rod found for corner at an inner L corner of Lot 1R;

THENCE N. 89 deg. 11 min. 46 sec. W, a distance of 51.14 feet to a 1/2" iron rod found for corner;

THENCE N. 00 deg. 33 min. 44 sec. E. a distance of 89.64 feet to the POINT OF BEGINNING and containing 4,489 square feet or 0.10 acres of land

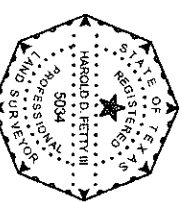
NOTES

- 1) According to F.E.M.A. Flood Insurance Rate Map, Community Panel No. 48085CQ280 J dated June 2, 2009, this property lies in Zone X. This property does not appear to be within a 100-year flood plain.
- 2) BEARING SOURCE: RECORDED PLAT.
- 3) ALL 1/2" IRSS ARE CAPPED WITH YELLOW PLASTIC CAPS. TRPLS 5034.

SURVEYORS' CERTIFICATE

I, Harold D. Fety, III, Registered Professional and Surveyor No. 5034, do hereby certify that the above plat of the property surveyed for RON LUSTING at 409 LIVELY STREET, MCKINNEY, COLLIN COUNTY, TEXAS, is the result of a careful collection of the best evidence available to me and my opinion is based on the facts as found at the time of survey. This survey meets the requirements of the Minimum Standards of Practice as approved and published by the Texas Board of Professional Land Surveying, effective September 1, 2019. All measurements were taken on the ground, and the same was surveyed under my supervision on the ground this the 15th day of March, 2019.

Harold D. Fety III, R.P.L.S. No. 5034



H.D. Fety Land Surveyor, LLC  
 Firm Registration no. 101509-00  
 6770 FM 1565 ROYSE CITY TX 75189 972-635-2255 PHONE tracy@hdfety.com

SYMBOL LEGEND	
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[Symbol]	200" IRON ROD FOUND FOR CORNER

*Does not need to plat for this lot # 423*  
*Known in white*

All rights reserved. No copyright or other protection is claimed in this drawing. All other aspects of the design are subject to change without notice or liability.



01 FRONT ELEVATION  
 SCALE 1/4" = 1'-0"

Drawn By: \_\_\_\_\_  
 Prep. Date: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Revisions: \_\_\_\_\_  
 Notes: \_\_\_\_\_

409 LIVELY STREET  
 MCKINNEY TEXAS



J. ROSE  
 ARCHITECTURE  
 (214) 944-8866, FAX (972) 400-0241

SHEET  
 A1



