

DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 203

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

Petition 20-18

**Mike Kelty on Behalf of the Michael J. Kelty
and Candace E. Kelty Declaration of Living Trust
Fence Building Height Variance**

INTRODUCTION

Mike Kelty, on behalf of the Michael J. Kelty and Candace E. Kelty Declaration of Living Trust, owns 4843 Lees Court (Lot 4 of Grove Estates). He wishes to construct an open air iron fence in the front yards of these properties at a maximum height of five feet ten inches (5’10”).

The Petitioner’s neighbor at 4779 Lees Court has the same request (see Petition 20-17).

The application materials are included as Attachment 1. The plat of survey showing the proposed locations of the fence is included as Attachment 2. The diagram of the fence is included as Attachment 3. The aerial of the property is included as Attachment 4.

SITE INFORMATION

PETITIONER Mike Kelty on Behalf of the Michael J. Kelty and Candace E. Kelty Declaration of Living Trust

ADDRESSES 4843 Lees Court, Oswego

LOCATION Lot 4 in Grove Estates

TOWNSHIP Na-Au-Say

PARCEL #S 06-08-151-005

LOT SIZE 1.00 +/- Acres

EXITING LAND USE Single Family Residential (Grove Estates Subdivision)

ZONING RPD-2 Residential Planned Development-Two

LRMP	Current Land Use	Single Family Residential
	Future Land Use	Rural Residential (0.65 DU/Acre Max)
	Roads	Lees Court, is a Local Road Maintained by Na-Au-Say Township
	Trails	None
	Floodplain/Wetlands	None

REQUESTED ACTION Variance to allow installation of a fence at five feet ten inches (5’10”) in height instead of the maximum four feet (4’) in the front yard.

APPLICABLE § 4.14.A.2 – Fences
 REGULATIONS §13.04 – Variation Procedures and Requirements

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	LRMP	Zoning within ½ Mile
North	Single Family Residential	RPD-2	Rural Residential (0.65 DU/Acre Max)	RPD-2
South	Single Family	RPD-2	Rural Residential	A-1 and RPD-2
East	Single Family Residential	RPD-2	Rural Residential	A-1 and RPD-2
West	Single Family Residential	RPD-2	Rural Residential	A-1 and RPD-2

GENERAL INFORMATION

The County previously granted similar fence height variances at 7109 Roberts Court (Lot 23 of Grove Estates) and 7126 Roberts Court (Lot 25 of Grove Estates).

As noted in Attachment 2, the proposed fence would be placed inside an easement. While this is lawful, the Petitioner has been advised that the fence could be removed or damaged as part of work inside the easement.

Also as noted in the Attachment 2, the Petitioner would like to install one (1) twenty foot (20') wide gate at the driveway of their property.

As can be viewed on the aerial (See Attachment 4), many of the nearby lots are vacant. Similar variances could be submitted for these properties at some point in the future.

NA-AU-SAY TOWNSHIP

Na-Au-Say Township was emailed this proposal on August 3, 2020.

OSWEGO FIRE PROTECTION DISTRICT

The Oswego Fire Protection District was emailed this proposal on August 3, 2020.

FINDINGS OF FACT

§ 13.04.A.3 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in *italics*. Staff has provided findings in **bold** below based on the recommendation:

*That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. **Other properties have fenced in their whole lot and, as long as the Homeowners' Association is fine with the fence height, there should not be an issue.***

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. **This is a variation that has been requested and could be requested in the future for other properties inside Grove Estates.***

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. **The owners do not have a hardship, but would like to install the fence as requested.***

*That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. **The***

requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Adding the proposed fence will not impair any of the above items and will not impact the roadway.

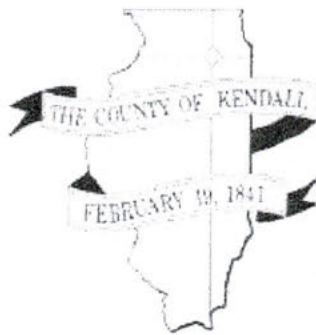
RECOMMENDATION

Staff recommends approval of the requested variance subject to the following conditions:

1. The maximum height of the fence shall be five feet ten inches (5' 10").
2. The fence shall be installed at substantially the locations shown in Attachment 2.
3. The fence shall be of the similar style as shown in the fence diagram provided in Attachment 3.
4. The Petitioner and future owners of the subject property acknowledge that the subject fence will be constructed inside an easement and that work inside the easement could cause damage or removal of the fence.
5. This variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns.

ATTACHMENTS

1. Application (Including Petitioner's Findings of Fact)
2. Plat of Survey
3. Fence Diagram
4. Aerial


DEPARTMENT OF PLANNING, BUILDING & ZONING

 111 West Fox Street • Yorkville, IL • 60560
 (630) 553-4141 Fax (630) 553-4179

APPLICATION

 PROJECT NAME 4843 LEES CT FENCE FILE #: _____

NAME OF APPLICANT <u>MIKE KELTY</u>		
CURRENT LANDOWNER/NAME(s) <u>MIKE KELTY / CANDACE KELTY</u>		
SITE INFORMATION ACRES <u>1 ACRE</u>	SITE ADDRESS OR LOCATION <u>4843 LEES CT</u>	ASSESSOR'S ID NUMBER (PIN) <u>06-08-151-005</u>
EXISTING LAND USE <u>HOME/RESIDENTIAL</u>	CURRENT ZONING <u>RURAL RESIDENTIAL</u>	LAND CLASSIFICATION ON LRMP <u>RURAL RESIDENTIAL (0.65 DU/ACRE)</u>
REQUESTED ACTION (Check All That Apply):		
<input type="checkbox"/> SPECIAL USE	<input type="checkbox"/> MAP AMENDMENT (Rezone to _____)	<input checked="" type="checkbox"/> VARIANCE
<input type="checkbox"/> ADMINISTRATIVE VARIANCE	<input type="checkbox"/> A-1 CONDITIONAL USE for: _____	<input type="checkbox"/> SITE PLAN REVIEW
<input type="checkbox"/> TEXT AMENDMENT <input type="checkbox"/> PRELIMINARY PLAT etc.)	<input type="checkbox"/> RPD (____ Concept; ____ Preliminary; ____ Final) <input type="checkbox"/> FINAL PLAT	<input type="checkbox"/> ADMINISTRATIVE APPEAL <input type="checkbox"/> OTHER PLAT (Vacation, Dedication, etc.)
<input type="checkbox"/> AMENDMENT TO A SPECIAL USE (____ Major; ____ Minor)		
PRIMARY CONTACT <u>MIKE KELTY</u>	PRIMARY CONTACT MAILING ADDRESS [REDACTED]	PRIMARY CONTACT EMAIL [REDACTED]
PRIMARY CONTACT PHONE # [REDACTED]	PRIMARY CONTACT FAX # —	PRIMARY CONTACT OTHER #(Cell, etc.) [REDACTED]
ENGINEER CONTACT <u>N/A</u>	ENGINEER MAILING ADDRESS	ENGINEER EMAIL
ENGINEER PHONE #	ENGINEER FAX #	ENGINEER OTHER # (Cell, etc.)
I UNDERSTAND THAT BY SIGNING THIS FORM, THAT THE PROPERTY IN QUESTION MAY BE VISITED BY COUNTY STAFF & BOARD/ COMMISSION MEMBERS THROUGHOUT THE PETITION PROCESS AND THAT THE PRIMARY CONTACT LISTED ABOVE WILL BE SUBJECT TO ALL CORRESPONDANCE ISSUED BY THE COUNTY.		
I CERTIFY THAT THE INFORMATION AND EXHIBITS SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I AM TO FILE THIS APPLICATION AND ACT ON BEHALF OF THE ABOVE SIGNATURES.		
SIGNATURE OF APPLICANT [REDACTED]		DATE <u>7/28/20</u>

 FEE PAID:\$ _____
 CHECK #: _____

¹Primary Contact will receive all correspondence from County

²Engineering Contact will receive all correspondence from the County's Engineering Consultants



201500002896

DEBBIE
GILLETTE
KENDALL COUNTY, IL

RECORDED: 2/26/2015 3:16 PM
GCD: 49.00 RHSPS FEE: 10.00
PAGES: 4

Commitment Number [REDACTED]

This instrument prepared by Ross M Rosenberg, Esq , Rosenberg LPA, Attorneys At Law,
3805, Edwards Road, Suite 550, Cincinnati, Ohio 45209 (513) 247-9605

After Recording, Send To

NATIONAL FINANCIAL AND GANCO RE TITLE LLC
SCOTT W. ...
CHICAGO, IL 60607

Mail Tax Statements To Michael J. Kelty and Candace E. Kelty, [REDACTED]

PROPERTY APPRAISAL (TAX/APN) PARCEL IDENTIFICATION NUMBER
06-08-151-005

QUITCLAIM DEED

Michael J. Kelty and Candace E. Kelty, husband and wife, as joint tenants hereinafter grantors, of **Kendall County, Illinois**, for \$1 00 in consideration paid, grant and quitclaim to **Michael J. Kelty and Candace E. Kelty, husband and wife**, in a tenancy by the entirety hereinafter grantees, whose tax mailing address is **4843 Lees Court, Oswego, IL 60543**, with quitclaim covenants, all right, title, interest and claim to the following land in the following real property

LOT 4 IN GROVE ESTATES BEING A SUBDIVISION IN PART OF THE WEST 1/2 OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT 2006-32893, IN KENDALL COUNTY, ILLINOIS

06-08-151-005

CKA: 4843 Lees Court , Oswego, IL, 60543

4


The real property described above is conveyed subject to and with the benefit of All easements, covenants, conditions and restrictions of record, in so far as in force applicable

The real property described above is conveyed subject to the following All easements, covenants, conditions and restrictions of record, All legal highways, Zoning, building and other laws, ordinances and regulations, Real estate taxes and assessments not yet due and payable, Rights of tenants in possession


TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title interest, lien equity and claim whatsoever of the said grantors, either in law or equity, to the only proper use, benefit and behalf of the grantees forever

Prior instrument reference **Doc. No. R2013-07573**

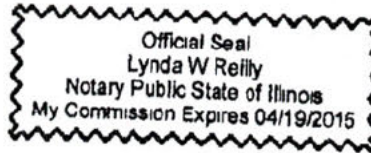
Executed by the undersigned on 1/5, 2015



Michael J. Kelty




Candace E. Kelty



STATE OF Illinois

COUNTY OF Will

The foregoing instrument was acknowledged before me on 1/2, 2015 by **Michael J. Kelty** and **Candace E. Kelty** who are personally known to me or have produced Illinois I.D. as identification, and furthermore, the aforementioned persons have acknowledged that their signatures were their free and voluntary act for the purposes set forth in this instrument




Notary Public

MUNICIPAL TRANSFER STAMP
(If Required)

COUNTY/ILLINOIS TRANSFER STAMP
(If Required)

EXEMPT under provisions of Paragraph (e) Section 31-45, Property Tax Code

Date 1/3/15


Buyer, Seller or Representative

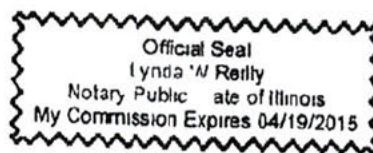
STATEMENT BY GRANTOR AND GRANTEE

The grantor or his agent affirms that, to the best of his knowledge, the name of the grantee shown on the deed or assignment of beneficial interest in land trust is either a natural person, and Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire title to real estate under the laws of the State of Illinois

Dated 1/3/15, 2015

[Redacted Signature]
Signature of Grantor or Agent

Subscribed and sworn to before
Me by the said Michael Keltz
this 3rd day of Jan,
2015



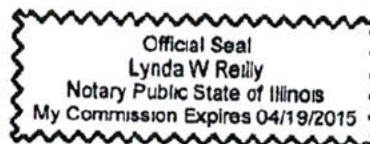
NOTARY PUBLIC [Redacted Signature]

The Grantee or his agent affirms and verifies that the name of the grantee shown on the deed or assignment of beneficial interest in a land trust is either a natural person, an Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois a partnership authorized to do business or entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois

Date 1/3/15, 2015

[Redacted Signature]
Signature of Grantee or Agent

Subscribed and sworn to before
Me by the said Michael Keltz
This 3rd day of Jan,
2015



NOTARY PUBLIC [Redacted Signature]

NOTE Any person who knowingly submits a false statement concerning the identity of grantee shall be guilty of a Class C misdemeanor for the first offense and of a Class A misdemeanor for subsequent offenses (Attach to deed or ABI to be recorded in Cook County, Illinois if exempt under provisions of Section 4 of the Illinois Real Estate Transfer Tax Act.)

Legal Description

LOT 4 IN GROVE ESTATES, BEING A SUBDIVISION OF PART OF THE WEST HALF OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT NUMBER 200600032893, IN KENDALL COUNTY, ILLINOIS.

COMMON ADDRESS: 4843 LEE'S COURT

KENDALL COUNTY
DISCLOSURE OF BENEFICIARIES FORM

1. Applicant: Michael J. Kelty Declaration of Living Trust dated August 24, 2016, and Candace E. Kelty Declaration of Living Trust dated August 24, 2016

Address: [REDACTED]
City [REDACTED] State [REDACTED] Zip [REDACTED]

2. Nature of Benefit Sought : Fence variance.

3. Nature of Applicant: (Please check one)

- a. Natural Person
- b. Corporation
- c. Land Trust/Trustee
- d. X-Trust/Trustee **XX**
- e. Partnership
- f. Joint Venture

4. If applicant is an entity other than described in Section 3, briefly state the nature and characteristics of the applicant:

5. If your answer to Section 3 you have checked letter b, c, d, e, or f, identify by name and address each person or entity who is a 5% shareholder in case of a corporation, a beneficiary in the case of a trust or land trust, a joint venture in the case of a joint venture, or who otherwise has proprietary interest, interest in profits and losses or right to control such entity:

NAME	ADDRESS	INTEREST
Michael J. Kelty	[REDACTED]	50%
Candace E. Kelty	[REDACTED]	50%

6. Name, address, and capacity of person making this disclosure on behalf of the applicant:

VERIFICATION

I, Daniel J. Kramer, being first duly sworn under oath that I am the person making this disclosure on behalf of the applicant, that I am duly authorized to make the disclosure, that I have read the above and foregoing Disclosure of Beneficiaries, and that the statements contained therein are true in both substance and fact.

Subscribed and sworn to before me this 28th day of July, 2020, AD. (seal)

Mike Kelty / Candace Kelty

[REDACTED] Notary Public

Applicant

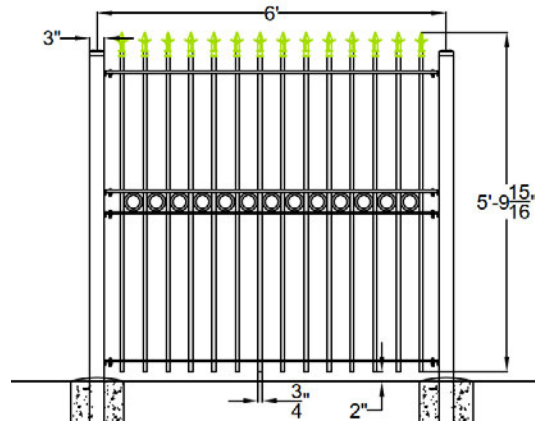


Please fill out the following findings of fact to the best of your capabilities. § 13.04 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals shall take into consideration the extent to which the following conditions have been established by the evidence:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out.

Lot 4

The proposed front yard fence has a total height of 5'-10" and is an open iron fence arrangement (see below).



The purpose for the taller fence is for security. The subdivision is an all wooded area and out of the 49 lots, only four lots have a constructed residence. The subdivision has experienced various vandalism events (see below) over the past few years and protection of personal property has become a significant concern, especially in light of the current nationwide civil unrest.

Vandalism Events:

- 1. Gang tagging at front entrance subdivision sign**
- 2. Multiple streetlights were shot out via a gun**
- 3. Personal mailbox was vandalized (required replacement)**
- 4. Subdivision construction site theft has been reported**
- 5. Loitering of nonresident people in subdivision that consume alcohol, drugs, use illegal fireworks in addition to racing thru the subdivision**

In addition to Vandalism occurrences, there are the following conditions that exist which lead to additional safety concerns:

- 6. Armed Hunters cross into property during hunting seasons**
- 7. Coyotes are frequently observed and pose a danger to pets and possible small children.**

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

Other residences in the subdivision experience the same safety concerns and hence have installed security fences in the front yard that are above the 4'-0" height requirement (5' to 6' tall) via the County variation process (7109 and 7126 Roberts Drive).

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

The security concerns are all created by outside non-residents of the subdivision

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located.

The variance has already been provided for two residence of the subdivision (7109 and 7126 Roberts Drive), thus a precedence has been created by the County, indicating the front yard taller fencing is acceptable and does not pose any negative detrimental effects “to the public welfare or substantially injurious to other property or improvements in the neighborhood”

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood.

The proposed fencing is an open iron security fencing product and poses no negative effects to subdivision or residents. The security fencing actually increases the property values in the subdivision due to its inherent nature of increasing security for the homes and surrounding properties.

Below is a rendering of the residence in question with taller front fencing as proposed (fence style may vary slightly)



NELSON SURVEYORS, LLC. FINAL SURVEY

PIN: 06-08-151-005-0000

NELSON SURVEYORS, LLC.
418 S. CASS AVENUE
WESTMONT, ILLINOIS 60559
NELSONSURVEYORSLLC.COM
(815) 436-8520 OFFICE
(815) 436-8528 FAX

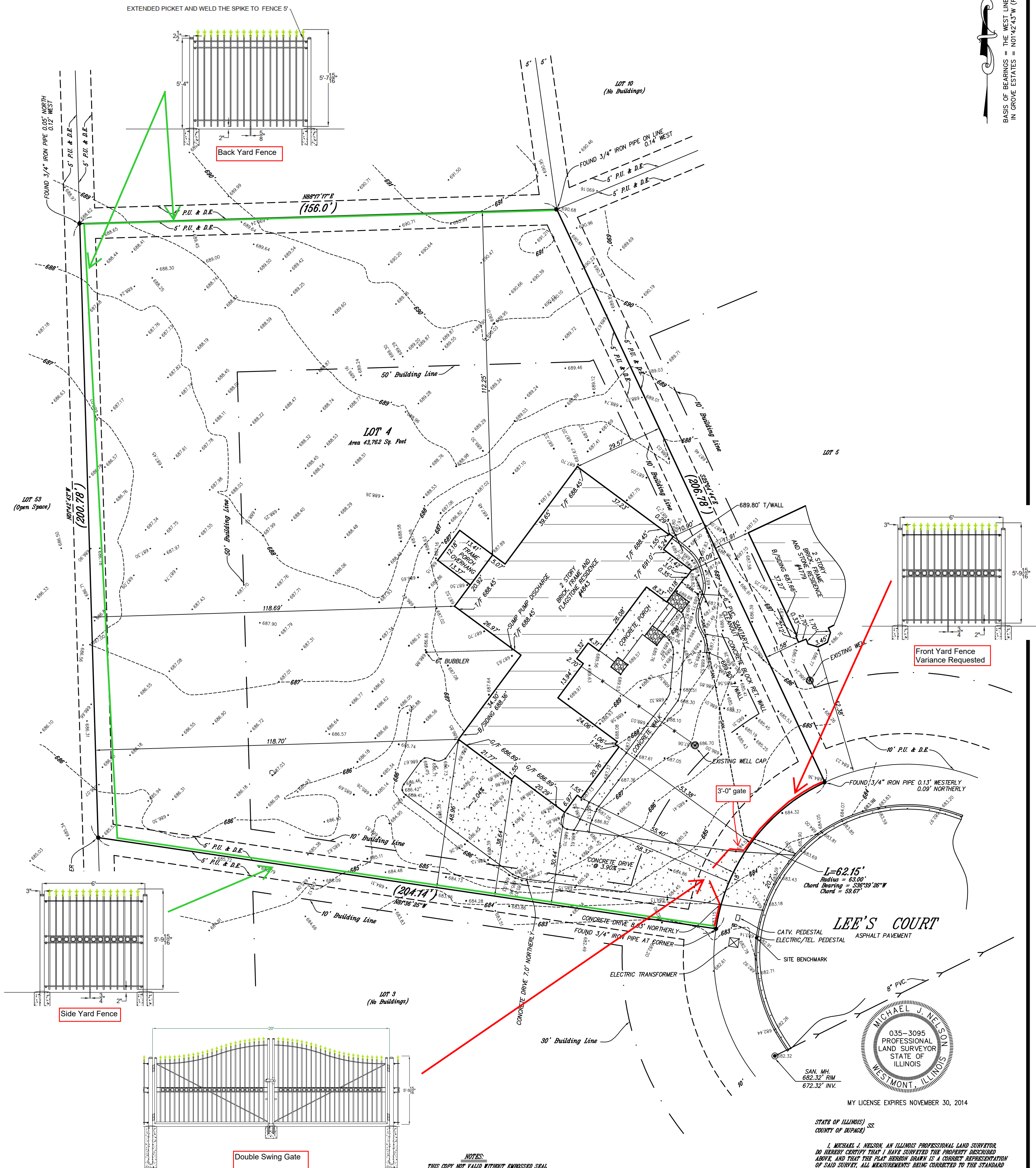
COMMON ADDRESS: 4843 LEE'S COURT

LEGEND

- MONUMENT FOUND
- MONUMENT SET
- (50.0') RECORD DIMENSION
- P.U.E. PUBLIC UTILITY BASEMENT
- D.E. DRAINAGE EASEMENT
- CP CONCRETE PORCH

LOT 4 IN GROVE ESTATES, BEING A SUBDIVISION OF PART OF THE WEST HALF OF SECTION 8, TOWNSHIP 36 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 12, 2006 AS DOCUMENT NUMBER 200600032893, IN KENDALL COUNTY, ILLINOIS.

BASIS OF BEARINGS = THE WEST LINE OF LOT 4 IN GROVE ESTATES = N01°42'43"W (RECORDED)



MY LICENSE EXPIRES NOVEMBER 30, 2014

STATE OF ILLINOIS) SS.
COUNTY OF DUPAGE)

I, MICHAEL J. NELSON, AN ILLINOIS PROFESSIONAL LAND SURVEYOR DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY DESCRIBED ABOVE, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY, ALL MEASUREMENTS BEING CORRECTED TO THE STANDARD AT 68 DEGREES FAHRENHEIT.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR TOPOGRAPHIC SURVEYS.

WESTMONT, ILLINOIS, NOVEMBER 27, 2013

NOTES:

THIS COPY NOT VALID WITHOUT EMBOSSED SEAL.

ALL DISTANCES ARE IN FEET AND DECIMAL PARTS THEREOF.

BUILDING LINES AND EASEMENTS ARE SHOWN ONLY WHERE THEY ARE SO RECORDED IN THE MAPS. COMPARE THE LEGAL DESCRIPTION, BUILDING LINES, AND EASEMENTS AS SHOWN HEREON WITH YOUR DEED OR TITLE POLICY.

CONSULT THE LOCAL AUTHORITIES FOR ADDITIONAL SETBACK LINES AND RESTRICTIONS NOT SHOWN HEREON. COMPARE ALL POINTS PRIOR TO CONSTRUCTION AND REPORT ANY DISCREPANCIES AT ONCE.

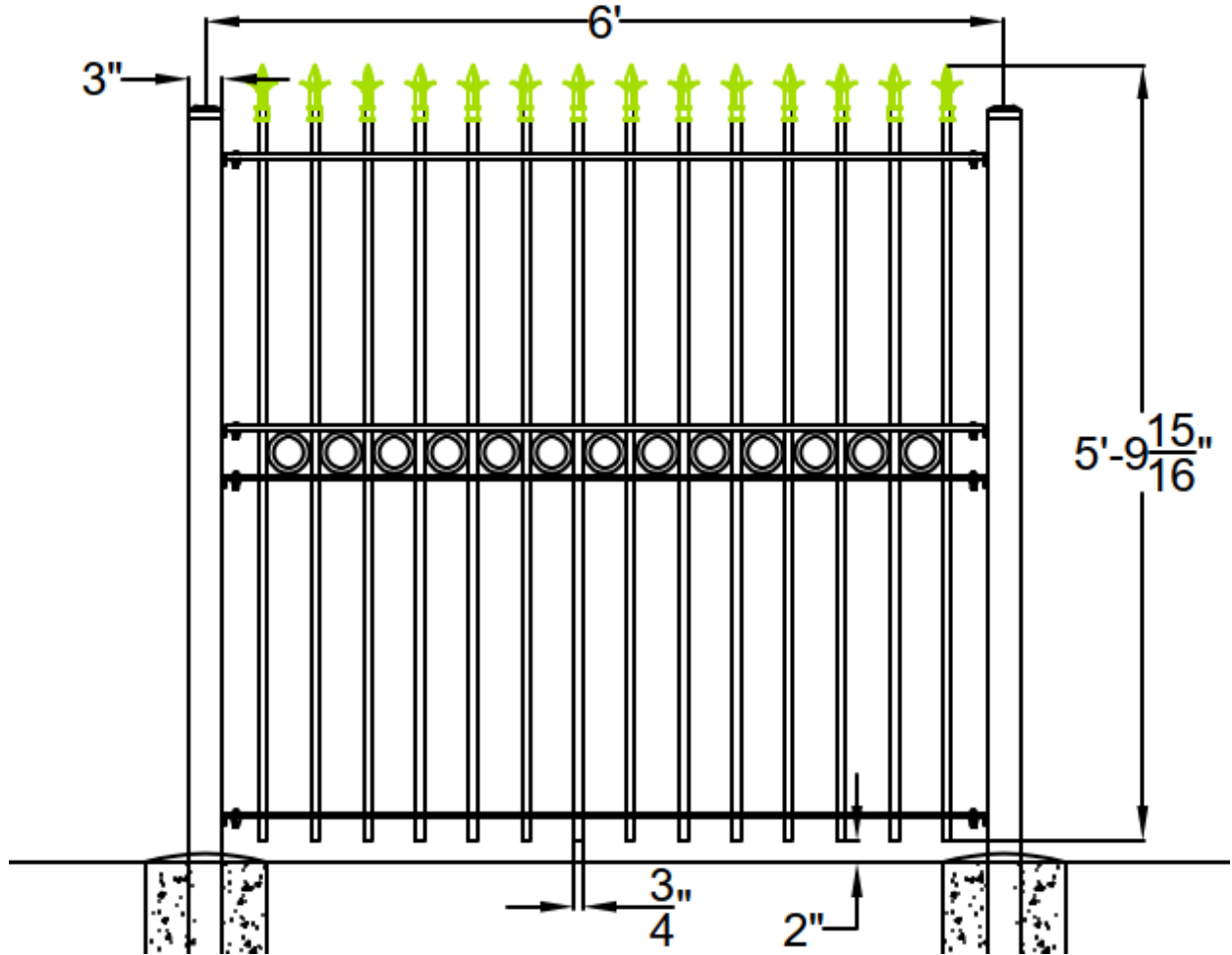
DO NOT ASSUME DISTANCES FROM SCALED MEASUREMENTS MADE HEREON.

BENCHMARK:
CROSS CUT IN TOP OF CURB BETWEEN LOTS 3 AND 4 AS SHOWN HEREON.
ELEVATION = 683.12'

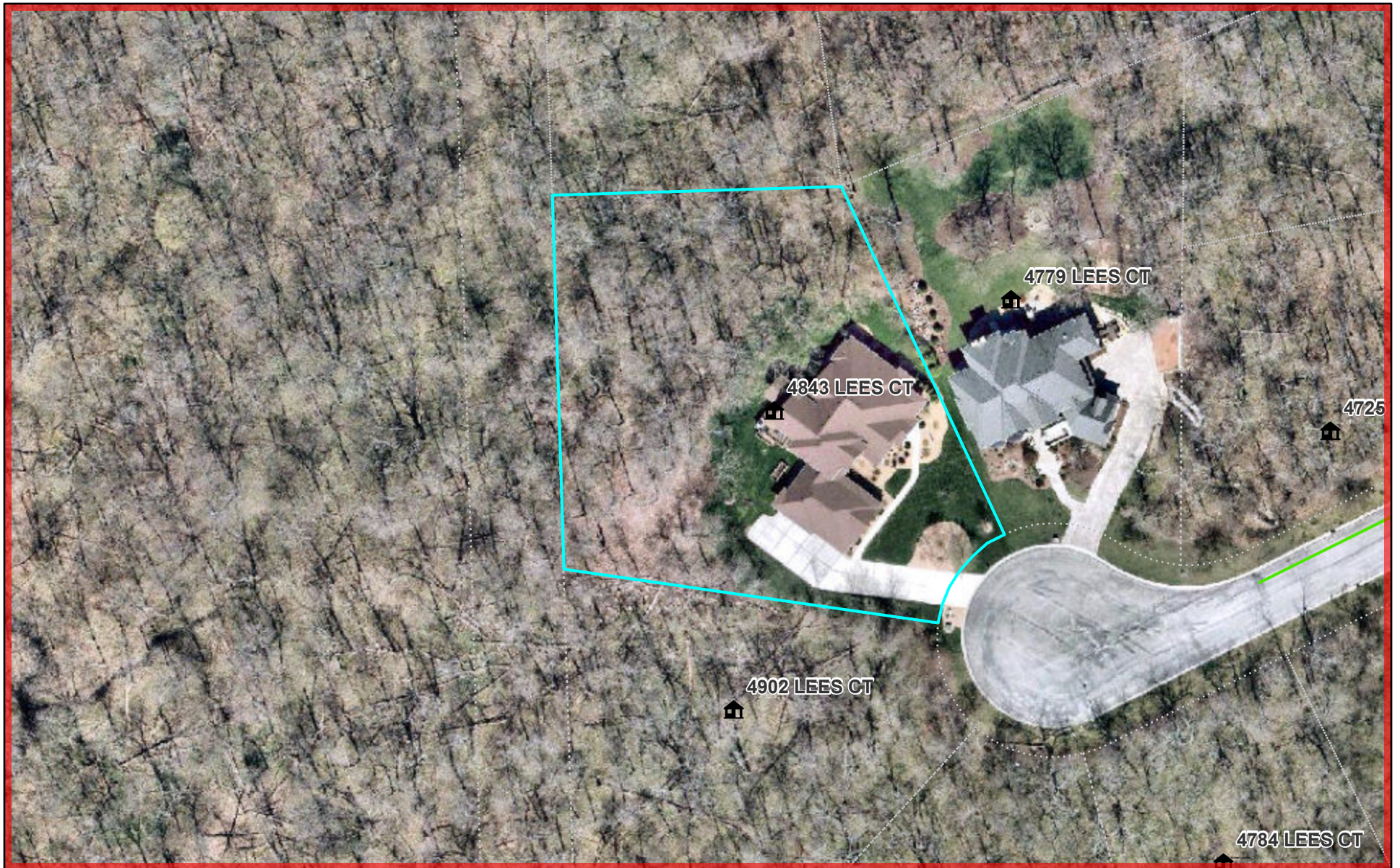
NOVEMBER 27, 2013 FINAL GRADING SURVEY JANUARY 15, 2013 BOUNDARY & TOPOGRAPHIC SURVEY	
PREPARED FOR:	DJK CUSTOM HOMES
DATE:	NOVEMBER 27, 2013
SCALE:	1"=20'
DRAWN BY:	MJN.
JOB#	13-05
F.L.D. BK/PC:	80-17

Attachment 3

Lot 4 (06-08-151-005)



Attachment 4



July 30, 2020

 Current Ownership Parcels

 Kendall County Addresses

